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COMMERCIAL POLICY IN THE FRENCH
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To this Essay was awarded the
Herbert Baxter Adams Prize
for 1917

COMMERCIAL POLICY IN THE FRENCH REVOLUTION

A STUDY OF THE
CAREER OF
G. J. A. DUCHER

BY
FREDERICK L. NUSSBAUM, Ph.D.,
PROFESSOR OF HISTORY, TEMPLE UNIVERSITY.

WASHINGTON, D. C.
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TO THE MEMORY
OF
RALPH CHARLES HENRY CATTERALL
MASTER

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THE THESES OF THE ESSAY

I

G. J. A. Ducher was the author of an important body of legislation in the French National Convention, including on the one hand, several restrictionist measures culminating in the Navigation Act and on the other, several acts of administrative reorganization.

II

The French national customs organization was developed by the Convention under Ducher's influence upon the model of the American system.

III

Protectionism was an important issue in the party struggle between the Gironde and the Mountain. The Gironde was free-trade, the Mountain was protectionist.

IV

The Gironde favored the slave trade, the Mountain was hostile to it.

V

Ducher advocated without success the application of principles derived from American experience to the financial problems of France.

VI

The commercial system of Napoleon I was based on the restrictionist legislation of the National Convention as inspired by Ducher.

VII

The Navigation Act has remained a part of French law down to the present.

VIII

The administrative system created by the National Convention under the influence of Ducher has persisted down to the present.

PREFACE

THE French Revolution was also a commercial revolution. From the economic liberalism of the latter years of the old regime, which had received its final expression in the treaty of 1786, the new masters of France reacted to a new mercantilism which should challenge the maritime and commercial predominance of England and restore to France her rightful place as the wealthiest country of Europe. Utilizing the commercial concepts of Colbert and Louis XIV, they established a program of restriction, retaliation and regulation as nationalistic in its implications as the idea of natural boundaries or the *levée en masse*. Before the end of the National Convention, the commercial revolution was finished. France had begun her part in the complicated and bitter commercial warfare of the nineteenth century. The fundamental acts of this revolution were the Exclusion Act of March 1, 1793, and the Navigation Act of September 21, 1793.

The Navigation Act was formally proposed three different times before its adoption, once in the Constituent Assembly, twice in the National Convention. In all three of the reports which accompanied these proposals, the influence of one man was explicitly or implicitly acknowledged. In the last days of the Constituent Assembly, the

reporter of a navigation act proposed by the Committee of Agriculture and Commerce referred his readers to the writings of one Ducher :

“We recommend to those who wish to devote themselves to the discussion of this proposal to procure the *projet de décret* published by M. Ducher, which is sold at Cussacs in the Palais Royal. It is full of excellent ideas. This is a tribute which the writer of this report believes he ought to render to M. Ducher.”¹

Marec, deputy from Finisterre, who on July 3, 1793, reported a similar proposal to the Convention for the Committee on Marine, was more explicit. In his discussion he acknowledges as the source of certain information

“the research of one of our compatriots who is today among the most deeply versed in the knowledge of our real commercial and political interests, the citizen Ducher.”

In a footnote he continues,

“If the Convention passes the navigation act, the nation should recognize its obligation to Citizen Ducher, who for more than two years, with unwearying constancy, has been promoting the adoption of such a measure not only by the publication of his writings but also before the committees of the assemblies. It gives me pleasure thus to do justice in a public manner to the character of that excellent citizen.”²

The act was finally passed upon the proposal of

¹ Delattre, *Acte de navigation, Rapport et projet de décret*, etc.

² *Rapport sur un projet d'Acte de Navigation. . . . par Pierre Marec*. Reprinted in *Arch. Parl.*, LXVII, 143.

the Committee of Public Safety. Barère, who reported for the Committee, declared

“that this decree and three others in regard to the customs, passed on the same day, were due to Citizen Ducher, who has rendered great services to the committee.”³

Who was this Ducher, whose influence on the progress of the Navigation Act its legislative sponsors unite in recognizing? His name is not mentioned in any general history of the Revolution. His existence is ignored by Levasseur, Amé, Deschamps and other writers on commercial history. Schmidt in his *Réceuil des principaux textes législatifs et administratifs concernant le commerce de 1788 à l'an XI* states accurately but very briefly the influence of Ducher on customs legislation. Otherwise, recognition of Ducher's work in any degree seems to be limited to inadequate and inaccurate paragraphs and footnotes in Masson's *Département des Affaires Étrangères pendant la Révolution*,⁴ Aulard's *Actes du Comité de Salut Public*⁵ and Gerbaux and Schmidt's *Procès-verbaux des Comités d'agriculture et de commerce*.⁶

The development of the navigation act has been left in equal obscurity. In the comparatively limited number of works where it is mentioned, few

³ *Moniteur*, October 3, 1793.

⁴ Pages 240, 241.

⁵ *Volume II*, page 118.

⁶ *Volume IV*, page 111.

give more than the date of passage, while those that attempt a fuller treatment fall at once into error. The most nearly accurate account is that of Levasseur in his *Histoire des Classes Ouvrières*, but even he states that the act was passed upon the report of Marec. Deschamps, in *Les colonies pendant la Révolution* asserts that it was passed in 1791 and "terminated worthily the economic work of the Constituent Assembly."

The significance of the act has likewise been ignored or misstated. Careless of the fact that it was not intended to be put into execution during the continuance of the war, writers have generally been satisfied to say that it was unfortunately without effect. Again, Levasseur is the most adequate in his appreciation of the later significance of the act, but limits himself to a few brief generalizations. As a matter of fact, the act was promptly put into full effect during the Peace of Amiens, was integrated with the navigation system of Napoleon, and became, under the Restoration, a fundamental part of French commercial policy.

The purpose of this study is to illustrate the progress and significance of the commercial revolution by means of an examination of the career and influence of Ducher. The purpose is not primarily biographical. The significance of the initials of Ducher's given names, the date and place of his birth, as of his death, are examples

of the facts of a personal character which have not come to light in the present study. So little biographical material has been found that of necessity the emphasis has been confined to Ducher's career as consul, journalist, pamphleteer and adviser to committees of the Revolutionary assemblies. The story of his consular career and the analysis of his consular papers, which occupy the introductory portion of the essay, are essential to an understanding of the origin and cast of his ideas. The material there presented points to a source of American influence in the commercial history of the Revolution of which little or no note has elsewhere been taken. The influence of Ducher upon the development of the Act of March 1, 1793, and of the Navigation Act is then defined. The very considerable achievement of Ducher in the administrative reorganization of the customs service is discussed in Part III. The implications of Ducher's work with the party struggle in the Convention is the subject of Part IV. The evidence here presented points to the conclusion, if it does not establish the fact, that economic issues were fundamental to the struggle between the Gironde and the Mountain. A brief summary is then made of some of Ducher's writings on the war and on financial matters which did not result in specific acts of legislation. In conclusion, an attempt is made to state the significance of Ducher and his work, especially in relation to the develop-

ment of French commercial policy in the nineteenth century.

I wish to acknowledge here some of the many obligations I have incurred in the preparation of this essay. It took its inception in a paper on the Revolutionary precedents of Napoleonic policy presented in October, 1913, to Professor William E. Lingelbach's seminar on Napoleon's commercial system. It was presented in 1915 to the faculty of the Graduate School of the University of Pennsylvania as a thesis in partial fulfillment of the requirements for the degree of Doctor of Philosophy. Professor Lingelbach's sympathetic encouragement and stimulating helpfulness are reflected in every chapter. Professor Edward P. Cheyney and Professor Charles H. Hull have both, at different stages in its development, read the manuscript and saved me from many of the pitfalls that beset the way of the monograph writer. Mr. Waldo G. Leland, then secretary of the American Historical Association, rendered invaluable assistance and guidance in the summer of 1914 in the use of the *Archives Nationales*, the *Archives des Affaires Etrangères* and the *Bibliothèque Nationale* in Paris. Professor F. E. Melvin kindly permitted me to use the manuscript of his exhaustive and illuminating work on Napoleon's Navigation System, now in print. My wife labored long and loyally on the proofs and the index. To these and to many others who on occasion have given me assistance in my work, I desire to express my grateful acknowledgments.

To the brilliant master whose example of intellectual courage and honesty is at the foundation of my training as a scholar, to whose subtle appreciation of the French Revolution my interest in my chosen field is due, to whose memory this work is dedicated in reverence and gratitude, my debt is beyond expression and beyond repayment.

F. L. N.

TEMPLE UNIVERSITY,
Philadelphia, Pa.,
July 1, 1920.

PART I

CONSULAR CAREER

After the American war, the French government was anxious to reap the rewards which it had not unreasonably supposed would be the fruit of its policy of generous assistance to the former colonies of England struggling for their independence. Accordingly, the consuls already established in the United States, de le Tombe, de Marbois and Dannemont, were given instructions to forward information in regard to trade laws, especially export and import duties, the commercial system of the Confederation and of the separate states.¹ The same letter went on to announce the intention of the government to attempt to replace the English in the American market, and, for that end, to send several agents to study the commercial situation. This projected expansion of the consular establishment brought down upon the Minister of Marine, one may believe, an eager lot of applicants, not of a remarkably able sort, if we may judge from descriptions of several of those chosen, but in all likelihood not much better or worse than the average French civil servant of the time, eager

¹ *Arch. Aff. Étr.*, Corresp. Pol., États Unis, Suppl., 11:245, 246. Rough draft, dated 16 fevrier, 1783.

for a position which would insure him without too much labor at least means of subsistence for as long as he chose. Among these applicants was one Ducher, an *avocat au Parlément*.

The available information in regard to Ducher's earlier career is very slight. He had written a treatise on the *coûtume* of Bourbonnais,² which he had published under the patronage of the Cardinal de Rohan. From the dedication and preface of this work, certain slight indications are obtainable in regard to his previous personal history. Apparently he was an Alsatian of Protestant origin, at least of Protestant sympathies; in the dedication it is for the erection of a monument of Turenne at Sasbach and for the assistance to the unfortunate in whatever condition, "in whatever religion they were born," that he declares the Cardinal is entitled to the "love of the Alsations, Catholic or Protestant, and of all those who have the good fortune to live under your laws." Ducher's work was conceived in a liberal, but sober spirit. "I have been inspired in this work," he writes, "by hatred for the slow delays of legal procedure, the uncertainties of which are unequalled except by the enormous expense necessary to sustain it." Basing his work upon that of the best of preceding commentators, Auroux des Poumiers, he developed it by the comparative method

² *Coûtures général et locales de Bourbonnais avec des notes, par M. Ducher, avocat au Parlément*. Paris, 1781.

of Cognille. He proposed to avoid "discours qui sont plus de fond que de substance."³

With the end of the American war he seems to have become actively interested in things American. The copy of the *Coûtures de Bourbonnais* in the Boston Public Library, acquired with the John Adams Library, bears on the fly-leaf, in the formal chirography of Adams himself, these words: "Present from the author, 31 August, 1783, at Paris." About this same time or within the next month, he besought appointment to a consular position in the United States. His name was presented by Batailhé de Frances, who had been resident and minister plenipotentiary at the court of St. James in 1768 during the absence of the Count du Chatelet, the regular incumbent.⁴ Although it was impossible to appoint him at once, he was put on the list of "aspirants." Ducher was eager to go to America even in advance of appointment to become acquainted with the English language, and asked for free passage on one of the King's packet-boats. This was refused, but he was given a "secours" of five hundred livres. Furthermore, De Castries, who as Minister of Marine made the appointment, secured for him the "protection" of Luzerne, just returned from a mission to the States. Thus provided with a sub-

³ *Coûtures de Bourbonnais*, avertissement.

⁴ See *Calendar of Home Office Papers*, 1766-1769, p. 370; 1770-1772, p. 257.

sidy of five hundred livres, the "protection" of two great men, and the passport of the King,⁵ Ducher set forth on his travels.

His journey was most unfortunate. His ship was wrecked on the coast of Long Island, thirty miles from New York. Fifteen men were lost. Ducher suffered from exposure and had to have seven toes and part of one heel amputated, besides losing a great part of his fortune.⁶ As soon as he recovered, he began investigations in the commercial laws of the thirteen states and sent letters and memoirs to the Minister of Marine.⁷ It was not until 1786 that he was given a regular appointment. He was then appointed vice-consul *ad interim* at Portsmouth, New Hampshire, Toscan, the regular incumbent, going to Boston during the absence on leave of the regular incumbent of that post. Although his *exequatur*, issued upon the request of De la Forest, was dated February 11, 1786, he entered upon his duties some time in the latter part of January.⁸

His first experience in the office was a quarrel with his predecessor. In his report No. 2, dated at Boston, he announced that Toscan had turned over to him an inventory of the papers of the vice-

⁵ *Arch. Aff. Étr.*, Corresp. Pol. États-Unis, Suppl., 2:320.

⁶ From an unsigned, undated and unaddressed copy of a memorandum by Ducher, probably written in the early part of 1791. *Arch. Aff. Étr.*

⁷ Ducher to the Minister of Marine, 30 July, 1790. *Arch. Aff. Étr.*

⁸ *New Hampshire State Papers*, XVIII, 761, and XX, 560.

consulate of Portsmouth, but that he did not regard it as correct in form. Toscan had retorted that the form was that used by Le Tombe on his departure from Boston and that "for the rest, all the papers at Portsmouth were useless, since the supply of St. Pierre and Miquelon was entirely settled and the packet-boat under construction at Portsmouth was no concern of Ducher." Ducher did not fail to have his revenge upon Toscan for this slight, reporting in full to the Minister of Marine Toscan's indiscreet outburst and later the utterance of President Sullivan of New Hampshire to the effect that the packet-boat which had been built under Toscan's direction had cost three times what it should have.⁹ Long years after

⁹ As a matter of fact, Ducher did have to concern himself with the affairs of the packet-boat. In the *New Hampshire Mercury* for July 12, 1786, the following advertisement appears: "34 White Pine Masts, 8 bowsprits and 80 yards of various dimensions to be sold at Public Vendue at Portsmouth in the State of New Hampshire on the twenty-fifth day of the present month of July. Whoever intends to speculate in said masts, etc., at private sale are requested to apply to M. Toscan in Boston, or to M. Ducher in Portsmouth previous to the day of sale. [Signed and dated] July 1, 1786, Ducher."

Apparently purchases had been made by the French government with a view to a considerable enterprise in the building of packet boats. Only the one mentioned, however, was ever built. Brissot (*Nouveaux Voyages aux États Unis*, page 91) speaks of having seen in the port of Havre de Grace "a packet, called the *Maréchal de Castries*, which had been built in America. Originally planned as the first of a series of such American built boats, it was the only one built and was being used between France and the West Indies."

when Ducher had risen to a position of considerable influence, he submitted to the Ministry of Marine a note¹⁰ discussing the various consuls he had encountered. Toscan was dismissed with a contemptuous reference to his attempt to impress the Ministry with the insufficiency of his salary, while as a matter of fact he had "deux chevaux gris, pommelés, un jolie voiture, et tenoit bonne table." In a register of letters and petitions addressed to the Executive Council,¹¹ under date of May 8, 1793, are registered a memoir and four pieces from Citizen Toscan, Vice-consul in America, relative to his removal and his oath. As this date was only a couple of months after Ducher had secured the transfer of the bureau of consulates¹² to the Department of Foreign Affairs, and when his influence was rapidly rising, it is tempting to adopt the inference that it had cost Toscan dear to snub Ducher, and that the latter was an excellent hater.

Ducher's relations with President Sullivan, whose term of office covered the main part of his consulship at Portsmouth, seem to have become particularly intimate. They coöperated in a plan to secure the payment of New Hampshire's share of the debt to France in products of the country. Sullivan gave cordial assistance to a plan by

¹⁰ "Note remise par M. Ducher." *Arch. Aff. Étr.*, unnumbered with his consular papers.

¹¹ *Arch. Nat.*, AF II, 8.

¹² See page 128.

which Ducher hoped to put an end to fraudulent trade between New Hampshire and the West Indies. From Sullivan, Ducher seems to have acquired his point of view in American politics, especially a distinct prejudice against John Adams.

Ducher was transferred to Wilmington, North Carolina, in the summer of 1787. The last of his reports from Portsmouth is dated June 1, 1787; his No. 2 from Wilmington was dated October 25, 1787. He had not, however, actually arrived at his post by that date, as he dates certain portions of an article in the *Moniteur*¹³ (many years later), "Charlestown, 23 Nov. 1787," and "Savannah, 16 Dec. 1787," while, in a letter dated "30 Jan. 1788," he advises the Governor of the State that he was at Charleston when he learned of the election of the latter.¹⁴

Henceforward, however, he seems to have remained persistently at Wilmington, closely enough indeed to acquire a powerful dislike for the place. Here he did not develop any intimacy with the state officials. Indeed such intimacy was scarcely possible in view of the distance of Wilmington from the capital. "Il n'y a ici ni nation, ni députés, ni chancelier, ni commerce francais," he complains in 1789 after something over a year of Wilmington. There are not wanting reasons to believe that he made himself rather disliked. His

¹³ *Moniteur*, March 7, 1796.

¹⁴ *State Records of N. C.*, XXI, 444-445.

letters in negotiation with the North Carolina Governor were certainly not models of diplomatic suavity and courtesy: "very importunate," Governor Johnston calls him.¹⁵

When Ducher was transferred to Wilmington, he found a negotiation under way for the payment of what was known as the Martinique debt. This was a sum of £3,090 owing to the Marquis de Bretigny, who had acted as agent of the state in procuring "certain articles"—probably military supplies.¹⁶ In spite of the repeated urging on the part of Luzerne, De Marbois, chargé des affaires, Petry, consul at Charleston, and Chateaufort, Ducher's predecessor at Wilmington, and repeated assurances by the Governor and acts by the General Assembly, it remained in large part unpaid when Ducher took over the Wilmington consulate.

Nor was Ducher more successful in his attempts to negotiate a payment of the debt. In his first communication to Governor Samuel Johnston,¹⁷ Ducher inquired whether the steps taken by Governor Johnston's predecessor, had resulted in the payment of the debt. Such was the confusion of the state government in North Carolina at the time that Johnston was quite unable to discover, even after consulting his predecessor, what the

¹⁵ *Ibid.*, p. 147.

¹⁶ *Ibid.*, XIX, 345.

¹⁷ *Ibid.*, Jan. 30, 1788, XXI, 444, 445.

exact state of this debt was, and was compelled to turn to Ducher for information about the account — “what has since been paid, and what balance remains, who has a right to receive it and to give a discharge.”¹⁸ Ducher likewise lacked the necessary information, and was obliged to write to the consulate-general at New York.¹⁹

The information which Ducher obtained from New York and submitted to the Governor showed that although £2,400 had been withdrawn from the treasury by John Gray and William Blount, only £264 5s. 5d. had been paid over, leaving a balance unpaid of \$4,826 63/90. The Legislature thereupon authorized the Governor to dispose of “so much of the public tobacco for hard money or bills of exchange as will discharge the said debt,” and incidentally demanded settlement on the part of Gray and Blount, or failing that, that suit should be brought against them.²⁰

In spite of this act of appropriation, the Martinique debt was completely ignored in the disposal of the tobacco. In August, 1789, Ducher wrote Johnston²¹ to inquire what hindered the payment of the Martinique debt, in view of the order of the General Assembly. On September 2, 1789, he writes that he has learned with pleasure that the

¹⁸ *Ibid.*, p. 493. Aug. 25, 1788.

¹⁹ *Ibid.*, pp. 498-499. Sept. 10, 1788.

²⁰ *Ibid.*, pp. 147-148. Dec. 2, 1788.

²¹ *Ibid.*, p. 562. Aug. 12, 1789.

tobacco has been sold²² and hopes that the Governor has made arrangements to pay the Martinique debt, and that His Excellency would inform him of the place, of the time, and the manner of the payment.

What had happened was that instead of being sold for money to pay the Martinique debt, the tobacco had been sold for a credit with the Treasury of the United States, to be applied on North Carolina's quota of the interest on the foreign debt.²³ Ducher had already, as early as July 1, 1789,²⁴ given up any hope of payment, since the Governor was not able to find any one who offered three dollars a quintal, the minimum price at which it was to be sold.

Nevertheless, Ducher continued his efforts to secure payment of this debt, which, it seems, had become an affair entirely between the government of Martinique and the State of North Carolina. In a message dated November 5, 1789, Johnston requests the Assembly to take steps to enable him "to give satisfaction to the consul of France, who is very importunate in his demands."²⁵ Again, on December 1, 1789,²⁶ Johnston transmits a letter from the consul of France to one of the State's agents for settling the accounts of the State. His

²² *Ibid.*

²³ *Ibid.*, p. 564.

²⁴ Consular report of Ducher, Wilmington, No. 37, July 1, 1789.

²⁵ *State Records of N. C.*, XXI, 506.

²⁶ *Ibid.*, p. 295.

importunity, however, was without effect, and the Martinique debt continued to drag on long after the termination of Ducher's consulship at Wilmington.

Whatever his relations with the officials of North Carolina may have been, no doubt can be felt that he was bitterly hated by De Moustier, the minister of France to the United States. In 1788, De Moustier prepared a report on the "Distribution des consulats et vice-consulats de France dans les États-Unis et caractère des différents sujets qui sont employés."²⁷ This report was based on another report made to De Moustier by De la Forest,²⁸ which did not mention Ducher by name, but only mentioned the vice-consulate of Wilmington and the salary paid the incumbent. De Moustier, however, as the title of his report gives reason to expect, discussed each of the individuals in the consular service. His opinion of Ducher, as it is almost the only direct comment on his personality and character, is worth quoting in full:

"M. Ducher, agent of commerce at Wilmington," he wrote, "has given constantly evidence of insubordination, of ill-will and of ignorance. Detested by all who know him, he breathes out impotent threats of vengeance, slandering meanwhile the whole consular force, and exciting hate in addition to the contempt which his misconduct

²⁷ *Arch. Aff. Étr.*, Mem. et Doc., États-Unis, 9:187-198.

²⁸ *Arch. Aff. Étr.*, Mem. et Doc., États-Unis, 15:49.

unceasingly inspires. It would have been better for the service of his Majesty and for the reputation in America of the name of Frenchman if he had never been invested with any functions whatever, and it is important that he should be recalled as soon as possible. The good faith of the Minister was evidently taken advantage of when the *Sieur Ducher* was proposed to him as a subject worthy of his protection. He began his career in America with an imposture and his whole conduct since has been worthy of that beginning. Whether from profound ignorance or from meanness of spirit, this fellow has not ceased to give all the causes of offence possible to the consuls and vice-consuls who have had anything to do with him. He has felt himself able to take advantage of them by appealing to the names of several powerful protectors who assuredly do not know him for all these bad qualities of spirit and of heart. The *Sieur Ducher* combines a repulsive person with a disgusting slovenliness of personal habits. A man like him can only dishonor the nation wherever he is sent. He came to America to expatriate himself. Some reverse put him in the notion of getting himself placed in the consular service, and by some unknown means he succeeded. He can be removed without difficulty, since his appointment is only as acting consul."

It is, of course, unnecessary to dwell upon the fact that this attack vitiates itself by its own viru-

lence. Furthermore, De Moustier himself was notoriously lacking in the qualities that make pleasant relations between men possible and was presently recalled for that very reason. Certain conclusions we may derive: that Ducher was of less than prepossessing appearance, seriously crippled, as we learn from other sources;²⁹ that he had had unpleasant relations with some of his fellow consuls—one such difficulty has already been discussed; and that he was in a position of advantage by reason of his “powerful protectors,” presumably Frances and Luzerne.

In spite of De Moustier's contempt for his character and intellect, Ducher seems to have been a zealous and active official. He was particularly industrious in reporting legislation.³⁰ In little more than a month after he had entered upon the vice-consulate at Portsmouth, he transmitted to the Minister four copies of a printed analysis of the commercial laws passed by the legislatures of New Hampshire, Massachusetts and New York in the sessions just finished which he had prepared,³¹ promising at the same time not to allow the remaining copies to appear without the Minister's permission. This was only the beginning of a long series of such analyses, sometimes written, sometimes printed, sometimes merely in the

²⁹ See above, page 14.

³⁰ It will be remembered that this was one of the items enjoined upon consuls in the document referred to on page 11.

³¹ Consular report of Ducher, Portsmouth, No. 3, March 31, 1786.

form of annotations on previously printed analyses, which continued at more or less regular intervals throughout Ducher's consular career at Portsmouth. His own suggestion evoked by way of response a request from the Minister of Marine that he make a similar collection covering all of the States. Ducher hastened to explain that such a project would involve considerable difficulties. He would have to go to each of the thirteen capitals, a task which would occupy him a whole year. "As to expenses," he tactfully continues, "limit them, Monseigneur, to a very moderate sum; I have no other object than to offer you this work." It does not appear that Ducher ever received the distinct commission for this work which he desired, but incidental journeys enabled him before his return to France to visit each of the States.

By that time, however, the establishment of the new Federal government and the commercial legislation of the new Congress had made unnecessary his projected compendium of the commercial laws of the separate States. Accordingly, he changed the plan of his work to meet the new conditions and published it under the title, *Analyse des lois commerciales, avec le tarif des droits sur les bâtimens et les marchandises dans les treize États-Unis de l'Amérique*.³²

It was probably as a result of his activity in the

³² See below, Part II, chap. 1, and Part III, chap. 1, for a fuller discussion of this work.

collection of laws that on September 25, 1786, Ducher was given an independent appointment as "agent de la Marine et du Commerce."³³ The functions of this office seem to have been entirely distinct from those of vice-consul *ad interim*, as he continued to serve under the latter description at Wilmington.

At Wilmington, Ducher seems to have been more interested in the collection of statistics in regard to the commerce of the three southernmost States. These statistics, he announced to the Minister, were part of the material he was collecting on the Southern States with the intention of writing a book on their commerce.³⁴ The tables for Wilmington itself were, of course, the most complete, but told only a poor story of French commerce. Not a vessel under the French flag had come into the port of Wilmington during his incumbency, he writes on December 19, 1788. The English, on the other hand, carried on almost as much commerce at that port as all other nations and the Americans combined. At Charleston, the English commerce was about one-fifth of the total, while that of France was inconsiderable.³⁵

Another direction in which Ducher rendered

³³ *Arch. Nat.* AF II, 63, liasse 463, dossier no. 38, "État des différents agents qui correspondent avec le ministre des Affaires Étrangères (1793)."

³⁴ Consular report of Ducher, Wilmington, No. 18, July 10, 1788.

³⁵ Consular report of Ducher, Wilmington, No. 23, September 15, 1788, and No. 27, December 19, 1788.

noteworthy service was in the matter of the control of American trade with the French West Indies. "The illicit trade with our colonies," he wrote in 1786,³⁶ "constantly excites my regret, since I am unable to prevent it. I see it going on from Portsmouth to Savannah. Although the Americans load in our ports of entry, on our coasts, in the neutral islands, it is very rarely that a New Hampshire vessel returns from the West Indies without prohibited articles." He pointed out that this illicit trade deserved particular attention, inasmuch as New Hampshire and Massachusetts were still maintaining their navigation duties against France, and urged that a system of passports, to be issued by the officers of the King on the mainland, should be required of all vessels trading to the West Indies.³⁷ Without waiting for particular directions, he put the system in force with a passport of his own devising,³⁸ and inserted in the New Hampshire *Mercury* a notice "that orders have been transmitted to the administrators of the West India islands to refuse admittance to all foreign vessels which will not present a passport from the consul, vice-consul or agent of His Most Christian Majesty, residing in the ports of their departure. In consequence thereof, all owners or masters of such vessels in

³⁶ Consular report of Ducher, Portsmouth, No. 11, September 1, 1786.

³⁷ Consular report of Ducher, Portsmouth, No. 4, May 1, 1786.

³⁸ Consular report of Ducher, Portsmouth, No. 8, July 6, 1786.

the State of New Hampshire as are intended for the French West India islands, are requested to apply for passports to M. Ducher, agent of the vice-consulate of France, residing in Portsmouth, N. H. June 29, 1786."³⁹ This requirement aroused great dissatisfaction among the New Hampshire shipping interests and led to some bitter newspaper attacks. These, however, were promptly discouraged by President Sullivan, who thereby earned an expression of gratitude from De Castries.⁴⁰

In the Ministry of Marine and Colonies, Ducher's suggestion received serious attention. The part of his No. 11 applying to the West India trade is marked "To be called to the attention of the bureau of colonies," and the copy is still to be found in the papers of that bureau.⁴¹

Upon his transfer to the South, Ducher found that the same condition existed there,⁴² and that South Carolina and Georgia especially encouraged the importation of sugar from the French colonies.⁴³ His No. 12, dated March 5, 1788,

³⁹ N. H. *Mercury*, July 12, 1786.

⁴⁰ Sullivan writes to Ducher, April 27, 1787, (Consular report of Ducher, Portsmouth, No. 27, June 1, 1787): "I am happy to learn by the letter of the Maréchal de Castries communicated to me by you that my conduct respecting the publications in our gazettes touching passports by consuls to American vessels bound to French ports had received his approbation."

⁴¹ *Archives de la Marine*, B7, 460.

⁴² Consular report of Ducher, Wilmington, No. 23, Sept. 15, 1788.

⁴³ Consular report of Ducher, Wilmington, No. 15, April 1, 1788. ✓

was another report on the "commerce interlope," and was thought worthy to be called to the attention of the bureau of colonies.⁴⁴ He made a practice of reporting individual instances to the consul general at New York, the home government, and the administrators of its colonies.⁴⁵

In 1789, near the end of his consular career in America, he transmitted a table showing the navigation of Wilmington with the islands together with the amounts of sugar, coffee, and brandies imported.⁴⁶

Unfortunately for the success of Ducher's system, it does not seem that he commanded the sympathy of the administrators of the colonies, or of his fellow consuls. In March, 1789, he complains that vessels without passports were admitted to the ports of the islands.⁴⁷ His aggressive urgency for the enforcement of the passport system had apparently embroiled him with Petry, his immediate superior at Charleston. On February 7, 1788, Petry wrote Ducher that

"il pensait que les administrateurs des colonies pourroient admettre les batiments dont les capitaines prouveroient par leur certificats de depart qu'ils viennent de tout autre port que de celui de Wilmington."

In other words, he suggested that strict attention by Ducher to the granting of passports at Wil-

⁴⁴ Consular report of Ducher, Wilmington, No. 12, March 5, 1788.

⁴⁵ Consular report of Ducher, Wilmington, No. 26, Dec. 15, 1788.

⁴⁶ Consular report of Ducher, Wilmington, No. 57, July 1, 1789.

⁴⁷ Consular report of Ducher, Wilmington, No. 31, March 13, 1789. ✓

mington was all that could be required or that was expected of him. Ducher promptly retorted by transmitting Petry's comment verbatim to the Ministry.⁴⁸

The system of passports still continued, however, and was extended, apparently for the purpose of controlling more effectively the American vessels sailing to the French islands. In the letter just cited Ducher acknowledges the receipt of orders dated June 13, 1788, concerning the passports to be given, and goes on to speak of the advantages which *will* follow a policy of limiting the number :

"Restricting the admission of American vessels in the French islands will increase French trade in the thirteen States."

Part of the arrangement required all vessels sailing from North Carolina for the French islands to clear from Wilmington. This was a great inconvenience to the North Carolina merchants, as three-fourths of the trade for the West Indies passed out by way of Ocracoke, far to the north of Wilmington. Williamson, a delegate of North Carolina to the Constitutional Convention, who in 1789 was acting as agent for the State, complained to the French minister, but the ambiguous political situation of North Carolina made an effective protest impossible.⁴⁹

⁴⁸ Consular report of Ducher, Wilmington, No. 33, April 28, 1789.

⁴⁹ H. Williamson to Gov. Johnston, New York, March 30, 1789.
State Records of North Carolina, XXI, 54. ✓

Ducher had quite definite ideas in regard to the proper policy for France to pursue to secure her share in American trade. France, he held, was entitled by the treaty of 1778 to preferential treatment in matters of trade. On this ground he protested against the indiscriminate application of the Navigation Act of New Hampshire against French vessels.⁵⁰ Besides the formal advantage of the commercial treaty of 1778, France was in a much better position, he held, to treat the Americans with equality and reciprocity than was England. England, being a strong power only by reason of her commerce, is the natural enemy of the commerce of all other powers. France, on the other hand, offered the Americans a complementary market. She could consume a greater quantity of their productions, both from the States of the North and from those of the South, and, at the same time could furnish them the manufactured articles which they lacked, almost all at a better price than could England.⁵¹

To push this advantage home, the Americans should be given large privileges in France, but not in the islands. There the admission of American vessels should be strictly limited. The result would be to increase greatly the French trade in the States. The corresponding policy on the part of England had brought about the result that the English preponderated in the trade of the South.

⁵⁰ Consular report of Ducher, Portsmouth, No. 3, March 31, 1786. ✓

⁵¹ Consular report of Ducher, Wilmington, No. 12, March 5, 1788. ✓

The trade of the States with the French colonies was of no benefit whatever to France. They imported and exported prohibited goods from the colonies, and sent the specie they secured in the colonies to London to buy more English goods, rather than to France to pay the debt which they owed to the King. On the other hand, laying restrictions in the colonies against the Americans could conduce to a new commercial convention with the new Congress based on reciprocal advantages and on prohibitions against "certain powers," the result of which will be to increase the commerce and the navigation of the French and of the Americans.⁵²

In another report,⁵³ he advocated the exclusion of the English from the tobacco trade between France and the United States. "It seems to me, Monseigneur," he wrote, "that the English ought not to be permitted to import American tobacco into France, even under the American flag, when that tobacco is English property. Is it wise to facilitate the commerce of the English in the United States, to say nothing of commerce of the English in France under the American flag?"

The establishment of the new government of the United States seemed to Ducher to be the opportune time to attempt to secure legislation unfavorable to English trade. The rejection in

⁵² Consular report of Ducher, Wilmington, No. 33, April 28, 1789. ✓

⁵³ Consular report of Ducher, Wilmington, No. 37, July 1, 1789.

the Constitutional Convention of the provision requiring a two-thirds majority for a navigation act seemed to indicate that the commercial interests would promptly demand such an act.⁵⁴ If the new constitution was adopted, that would be the moment to influence the new Congress to reply to the rigors of the English commercial system and to prevent the negotiation of a treaty of commerce between the two nations. "All who are favoring the new Constitution will demand a navigation act modelled on that of England. All the merchants in all the towns are hoping that war will result from the conflict of commercial interests between England and the United States, in the hope that a war will advance unification and an aggressive commercial policy." On the other hand, "those who are now opposing the new Constitution will soon love it if war and the *suspension of English debts* are the consequence of its adoption. The interest of commerce, the hope that a crisis will fortify the position of the new government, and the desire of evading the payment of debts may reunite all hearts. It is then that the comparative table of the rigors of England against the trade of the thirteen States and of the facilities which France has given it, will produce its full effect if it is impressed upon them by opening France still more completely to

⁵⁴ Consular report of Ducher, Wilmington, No. 8, Feb. 2, 1788.

their trade and attracting the productions of their soil to the French markets by the most liberal privileges.”⁵⁵

Ducher by no means confined his reports to commercial subjects. He followed with great interest the breakdown of the existing government under the Articles of Confederation and the establishment of the new Constitution. Although his observations were not always accurate as to fact, they show a high degree of insight into the actual conditions of the times. His analyses of the economic and social cleavage between the debtor and creditor classes on the one hand, and between the North and the South on the other, and its influence on the movement for a new constitution are especially acute and deserve attention in any study of the period. An analysis of this phase of his consular reports, however, although interesting in itself, does not properly have a place in a study of his influence on commercial legislation, and must be postponed until some other occasion.

Ducher's consular reports from Wilmington come to an abrupt end with his number 39, dated October 1, 1789, in which he discussed the opening of the second North Carolina Convention to consider the ratification of the Constitution.

⁵⁵ Consular report No. 12, Wilmington, March 5, 1788. Cf. article by Prof. William E. Lingelbach on "*Saxon American Relations, 1728-1828.*" *Am. Hist. Rev.*, XVII, 3, April, 1912.

He had not been happy in his life at Wilmington. He was ill during the summer of 1788, and found the doctors "ignorant and expensive." The town was only "a village of 800 citizens, situated between three sand hills, a muddy river and a marsh." The unimportance of his position also distressed him. In the first year of his sojourn at Wilmington not a French vessel arrived at Wilmington. "Il n'y a ici ni nation, ni députés, ni chancelier, ni commerce français," he wrote in despair.

In the early part of 1789, he requested permission to leave Wilmington and return to Europe.⁵⁶ He promised to take advantage of his trip overland to New York to survey the states which he had not yet studied and to present to the Minister a study which should set forth the commerce and commercial laws of the various states, as well as an account of the working of the new Constitution, the elections and the new President and Congress.⁵⁷

He also expressed the hope that it would be possible to use him in the service of the King of France or in some European town, where, he wrote, "je puisse être plus utile qu'à Wilmington et où le climat moins malsain ne m'otera pas l'espérance d'être utile plus longtemps."

His request was granted, and some time late in

⁵⁶ Consular report of Ducher, Wilmington, No. 30, Jan. 21, 1789.

⁵⁷ Consular report of Ducher, Wilmington, No. 31, March 13, 1789.

1789 he left Wilmington. He was at Fayetteville, and probably engaged in observing the progress of the Convention when he received "news of the events which have made France free."⁵⁸ The same letter may have contained the permission which he had so long been seeking, to leave the marshes and muddy river and sand hills of Wilmington and to return to France. The analysis of the commercial laws of the different States which he had hoped to complete had been rendered useless by the legislation of the first Congress of the new government, but he apparently followed out his original plan to travel through the Middle States.⁵⁹

By June 1, 1790, Ducher was in Paris, as is shown by a receipt for four of his consular reports signed by him on that date.⁶⁰ On December 13, 1790, he appeared before the Committee of Agriculture and Commerce to present some of the ideas in regard to commercial relations with the United States which he had formed during his experience there.⁶¹ The next three years of his career were marked by an industrious and ultimately successful agitation for the adoption by France of a policy of encouragement to trade and navigation,

⁵⁸ La Croix, *Actes de la Commune de Paris*, II, 157.

⁵⁹ *Moniteur*, Jan. 23, 1791.

⁶⁰ *Arch. Aff. Étr.*, (unclassified).

⁶¹ Gerbaux et Schmidt, *Procès-verbaux des comités d'agriculture et de commerce*, I, 711. Referred to hereafter as "Gerbaux et Schmidt."

the central feature of which was a navigation act based upon that of England. He had witnessed the effects of that act on trade in the United States and the West Indies; he had seen the attempt at retaliation in kind by New Hampshire and Massachusetts. He shared the hopes of the commercial interests in the United States that the new government would successfully retaliate upon Great Britain and force the relinquishment of her policy of exclusion. He recognized that the interests of France and of the United States in this respect were identical. He believed that France was more able to retaliate, by reason of her greater wealth and power, than were the United States. He believed that France, by reason of her greater population and extent of territory, could rightfully challenge the supremacy of England in the trade of the world, and that the first essential means to that end was the adoption of a navigation act. This obscure consular official, after years of thankless work with committees of the revolutionary assemblies, and by a persistent campaign of education in the columns of the *Moniteur*, was at last able to impose his idea on the National Convention.

PART II

DUCHER AND THE NAVIGATION ACT

CHAPTER I

IN THE ASSEMBLIES

Before his return to France, Ducher had completed the task he had assumed of gathering together and analysing the commercial law of the United States. His task was much simplified by the new constitution. Control of commerce had passed from the states to the national government, and from a condition of confusion and complexity to one of great simplicity. Accordingly his book, instead of being the very considerable work which the subject would have required before 1789, is only a slight pamphlet of thirty-five pages.¹ It consisted principally of two elements: a very full paraphrase of the act of August 4, 1790, which established the organization of the American customs service and the duties on imports and on tonnage, and, secondly, an argument in favor of a protective system in general, advocating in particular the adoption by

¹ *Analyse des loix commerciales, avec le tarif des droits sur les bâtimens et les marchandises dans les treize États-Unis de l'Amérique, par J. Ducher* [dated] Londres, 20 octobre, 1790.

France of a navigation act like that of England. It is only with the second part of the pamphlet that we are for the moment concerned.

The organization of this part of the pamphlet was rather disjointed, being by way of comment on the features of the American system which might be useful in the new organization of French commerce. After a brief paragraph urging the collection of the laws of foreign nations on commerce and navigation, and an argument in favor of *ad valorem* duties based on the value at the place of importation, Ducher took up the advocacy of a protective system for France. "If a state is the most populous of Europe, if the soil is fertile and the manufactures numerous; if it has rich possessions all over the globe—that state ought to cut itself off and ought to open its markets to foreign goods only on great inducements. No power can give it the equivalent of its own internal market for its own manufactures. The outlets which will be opened to it among foreign powers, cannot be useful except when it receives only specie or raw materials, and not manufactured goods, in return.

"France is in an especially happy position," he asserted, "to use its customs for the production of commerce since it is not, as are England and the United States, dependent on the proceeds of the customs for revenue. The interest of commerce demands that a patriotic barrier (*un mur patri-*

otique) should be raised at the frontiers to assure to French industry the greatest possible share of the products of its own activity. Let the duties and the bounties accorded to commerce be wisely combined and the fiscal devices of the other powers will be disarranged, while their citizens will be attracted to citizenship in a state whose laws are the most favorable to commerce.

“On the other hand, the new tariff ought not to leave any imposts in any of the ports of France, except on the vessels and goods of foreigners. Since the abolition of the barriers, since the surrender of privileges, since the reunion into one family of the French, Santo Domingo is a part of France.

“An industry that deserves particular encouragement is the construction and navigation of vessels. Navigation is another manufacture. A vessel is a travelling shop which every minute of the nights and days of voyage, by giving a new value to the cargo, pays the interest on the capital, the depreciation of the vessel, the living and wages of the sailors. To buy vessels of foreign construction and not to limit the participation of foreigners in the carrying trade is to renounce two very important industries. The commerce of France demands that it should be ordained that no vessel will be reputed French or be entitled to the privileges of French vessels if it has not been built in France, or condemned as a prize taken

from the enemy, or confiscated for contravention of the laws of France, unless it belongs entirely to citizens of France and is entirely manned by Frenchmen. Our interest requires us to ordain that 'no foreign commodities, productions or goods can be imported except directly by French vessels or vessels belonging to subjects of the sovereign of the country of growth, production or manufacture, or of the ordinary ports of sale and first exportation.' "

The unfortunate results of neglecting this policy Ducher illustrated by its application to the American trade. "We receive American tobacco imported by English vessels; we pay for it in specie; and that tobacco is the price of goods manufactured in England! Do we wish to continue to encourage English commerce in the United States? I have seen Americans as offended as surprised that the English and the Dutch were allowed to import into France the productions of the United States." The adoption by France of an exclusive navigation policy, Ducher declared, would be of tremendous advantage to the American commercial interests. The United States would respond with an American navigation act, and the commercial bonds between them and France would become of actual value.

Two nations never had more reasons, the argument continues, to induce them to be closely united commercially. If each nation had the legislation

that was best for its own interests, the United States would be bound more closely in commercial relations with France than with any other nation of Europe. "What nation of Europe," asks Ducher, "can consume a greater amount of the products of the United States? What nation of Europe can furnish them to better advantage with the products they need? With what nation would they have more of the profits of navigation, that is to say, more freight on their products, which in many cases amounts to half their value? May the epoch of liberty in France be that of a law which will increase the commerce and the navigation of the French and of the Americans, and unite them by bonds as indissoluble as only those of the greatest interests can be."

As a matter of fact, Ducher did not bring his wares to an absolutely new market. The protectionist reaction which in France followed the treaty of 1786 was marked by an emphatic admiration for England's commercial institutions, especially for her tariff and her navigation act. This tendency was even general. In 1785, John Adams, the Minister of the United States to the Court of St. James, wrote to John Jay: "You will perceive, Sir, by this conference [with the Minister of Portugal at London in regard to a treaty of commerce between their respective countries] what is more and more manifest every day, that there is, and will continue, a general scramble

for navigation. Carrying trade, ship building, fisheries, are the cry of every nation; and it will require all the skill and firmness of the United States to preserve a reasonable share of their own; they have brought treaties of commerce so much into fashion that more have been made since the American war, and are now in negotiation, than had been made for a century before." In a slightly different connection, he remarked: "I do not believe the British navigation act can last long; at least I am persuaded if America has spirit enough *umbone repellere umbonem*, that all the nations will soon follow her example."²

The fundamental principle of Ducher's program, the restriction of importation into France to French vessels and vessels of the country of origin, was embodied in the *arret* of December 29, 1787, for the encouragement of commerce with the United States.³ The privileges of export and import which that *arret* granted the Americans, were in each case limited by the provision that the goods in question should be carried "directly" on French or American vessels. The modification of the English navigation act in favor of France was considered as one of the possible aims of the French negotiators when the treaty of 1786 was being contemplated, but it was

² *Diplomatic Correspondence of the United States* (1783 to 1789), IV, 437, 439.

³ Isambert, *Réceuil des Anciennes Lois Françaises*, XXVIII, 489.

deliberately given up as a subject upon which England could not be expected to yield anything.⁴ Calonne at the time was attempting to bring about the revival of an old law of 1701, which had forbidden the receipt of any but English goods from English vessels, but he was unable to overcome the resistance of Vergennes and finally was defeated by the conclusion of the treaty.^{4a} The anonymous but able writer of the *Réflexions sur le commerce, la navigation et les colonies*, which appeared in the year 1787, remarks and approves the growing appreciation of England's navigation policy. He does not, however, advocate its immediate adoption as a whole, but urges that the carrying trade with the sugar colonies be monopolized for the national merchant marine, and that the trade with the United States be confined to French and American ships. In 1789 a formal deputation from the Admiralty had appeared before the Assembly to remind it that the national merchant marine was a large and important interest worthy of the Assembly's protection and encouragement.⁵ On the other hand, it is noteworthy that encouragement of navigation was not on the program of the committee of agri-

⁴ Rayneval's memoir on the Treaty of 1786, addressed to the First Consul in 1802. Reproduced in Butenval, *Établissement en France du premier tarif général de Douanes*, Appendix X, p. 180.

^{4a} Calonne to Vergennes, Aug. 9, 1786. *Arch. Aff. Étr.* Correspond. pol. *États-Unis*, 32.

⁵ *Arch. Parl.*, VIII, 317.

culture and commerce as late as May 8, 1790;⁶ but in August, 1790, the deputies extraordinary of commerce urged the committee to take cognizance of a *projet* of a navigation act upon which the committee of marine was engaged, and the chairman was accordingly instructed to write to the committee of marine on the subject.⁷

The plan of a system of preferential tariffs, favoring, first, the goods imported in French vessels, then those imported in vessels of the nations of origin, was considered at a late stage in the preparation of the tariff of 1791, but it was felt to be impossible to introduce so far-reaching a modification at the time.⁸

In general, it may safely be said, a distinct element of the revolutionary movement was a strong neo-mercantilist reaction from the liberalism of the treaty of 1786, which drew its inspiration from the Physiocrats, and particularly from Adam Smith. Ducher's was no voice in the wilderness, but his significance is not lessened by the fact that he was the effective spokesman, as the story of his career will indicate, of the general movement that ultimately brought France into the primrose path of exclusionism.

After Ducher's return to Paris, his American experience and his active interest in the improvement of the commercial relations between France

⁶ *Plan des travaux du comité d'agriculture et de commerce.*

⁷ Gerbault et Schmidt, I, 436. Aug. 4, 1790.

⁸ Delattre, *Arch. Parl.*, XXXI, 295.

and the United States led naturally to relations with Lafayette, who had been deeply interested in the same object ever since 1783 and who was especially active in promoting it in 1790.⁹ Through the General, Ducher was introduced to the Committee of Agriculture and Commerce and began that relation with the committee which was such an important instrument of his success. On December 13, 1790, Lafayette appeared before the committee to urge the importance of strengthening the bonds which joined the two countries, and to request, as a means to that end, that Ducher should be admitted to its sessions. The committee assented and a commission was appointed to confer with Ducher.¹⁰

The minutes of the committee do not record the presence of Ducher at any of its sessions. Direct evidences of his activity during the period of the Constituent Assembly are limited to two occurrences. He next comes into view in the act of taking the oath required of diplomatic and consular agents by the act of 1790. On January 17, 1791, in company with M. Denin, secretary of the embassy at Venice, he appeared for that purpose before the *conseil-général* of the commune of Paris. Before taking the oath he seized the occasion to deliver a brief address.

⁹ See Swan, *Causes qui se sont opposées aux progrès du commerce entre la France et les États Unis*, pp. 1-6.

¹⁰ Gerbaux et Schmidt, I, 711.

“I was at Fayetteville, in North Carolina,” he began, “when I received the news of the events which have made France free; and since that time I have travelled in the other United States of America. The French, whom commerce has called to those states since the treaty of 1783, and the descendants of French Protestants whom the prosecutions of an ancient fanaticism have forced to expatriate themselves and to seek an asylum in the one-time colonies of England, have heartily applauded our change of constitution. It is especially now that the French of Canada and of Louisiana sincerely deplore their separation from France.

“Those citizens of the United States who are not of French origin, but who are true Americans, friends of their national existence, have rejoiced to learn that their first allies, the nation whose blood had flowed to assure their independence, have become in an instant the freest nation of Europe. I ought not to conceal from you, gentlemen, that Americans pride themselves over having effected their revolution before ours, and having created a second Washington, as they say, for the National Guards of Paris; the Americans desire, Messieurs, to be associated with you in the glory of your success; let us desire always to be united with them; let us be reciprocally Frenchmen and Americans. Let us give in the two hemispheres the greatest examples to the greatest vir-

tues, love of liberty and respect for the law.”¹¹ These sentiments were received with hearty applause by the Assembly. The Mayor responded with a brief speech of felicitation. It was ordered that the speech and the response should be entered on the minutes of the *conseil-général*.¹²

The other event of Ducher's career in this period, of which direct evidence has been left, relates itself more closely to his campaign for the navigation act. On January 29, he submitted to the Assembly itself his *Analyse des lois commerciales* with the *projet* of a navigation act. His letter was read to the Assembly and his proposals referred to the Committee of Agriculture and Commerce.¹³ In the committee, Ducher's letter and *projet*, described as “deux imprimés,” were intrusted to M. Delattre for report.¹⁴

Despite the absence of positive evidence, certain traces of Ducher's ideas lend a high degree of probability to the belief that he continued his connection with the committee, and presently exercised a very direct influence upon its recommendations. Almost at the same time that he submitted his *Analyse* and proposal of a navigation act to the Assembly, the Committee of Agriculture and Commerce was engaged in consideration of a

¹¹ La Croix, *Actes de la Commune de Paris*, II, 157-158.

¹² *Moniteur*, Jan. 23, 1791.

¹³ *Procès Verbal de l'Assemblée nationale*, Jan. 29, 1791, p. 6.

¹⁴ Gerbault et Schmidt, II, 91.

plan¹⁵ to apply the principles of the navigation act to the tobacco trade, to which, in his *Analyse*, Ducher had referred particularly as an example of conditions to be remedied by a navigation act.¹⁶ On March 1, Roussillou, one of the members of the committee, proposed to the Assembly a decree providing that tobacco should be imported only from the United States, the Spanish Islands, Russia or the Levant, and only in French vessels or in vessels of the country of origin. The tobacco imported in French vessels was to be subjected to one-quarter less duty than that imported in others, and no vessel was to be regarded as French unless it had been constructed in France, was commanded by a Frenchman and two-thirds of its crew were French.¹⁷

At this latter provision the Assembly hesitated. Garat objected that a foreign vessel was supposed to become French when it was bought by a Frenchman. Castellanet demanded re-reference to the committee, or at least an amendment to the effect that all vessels actually on the lists of the admiralty should be regarded as French pending the adoption of a navigation act. The Assembly at last decided that the whole question should be adjourned until the navigation act was taken up.¹⁸

¹⁵ *Ibid.*, p. 73.

¹⁶ See the article "Tarifs," reprinted from the *Analyse*, *Arch. Parl.*, LXXII, 404.

¹⁷ *Procès Verbal de l'Assemblée nationale*, March 1, 1791, p. 14.

¹⁸ *Arch. Parl.*, XXIII, 595.

Nevertheless, Roussillou resubmitted the article to his committee at its next meeting. After some discussion by the members and by "*les commissaires de MM. les députés extraordinaires du commerce*," the committee decided not only to maintain the article and to submit it again to the Assembly, but to submit a new article designed to prohibit the importation of vessels of foreign construction.¹⁹

In reporting this decision to the Assembly, Roussillou explained that the step had been taken on the advice of the deputies of Bordeaux, Nantes, Saint Malo, Marseilles, and other maritime towns, and all were agreed that the manufacture of vessels was an industry well deserving protection and encouragement by the Assembly. For the rest, his argument confined itself to pointing out how such a step would provide work for the poor. It is noteworthy that the military argument and the argument from the experience of England which Ducher used are omitted.²⁰ In spite of opposition and attempts to amend, the two articles were passed and became law. The first became article 7 in the final form of the decree of March 1, sanctioned April 24, 1791. The second remained separate and was approved May 13, 1791.²¹

¹⁹ Gerbaux et Schmidt, II, 98.

²⁰ *Arch. Parl.*, XXIII, 658.

²¹ *Procès Verbal de l'Assemblée nationale*, March 4, 1791, p. 7. *Collection des décrets*, pp. 84-85, 379. Gerbaux et Schmidt, II, 89.

Meanwhile the navigation act was developing. On December 1, 1790, on the proposal of a deputy to prepare a work on an act of navigation, the Assembly had directed that the subject should be referred to the Committees of Marine and of Agriculture and Commerce.²² The Committee of Agriculture and Commerce promptly named Delattre and two others as commissioners to prepare a project and to report it to the Committee.²³

The Committee of Agriculture and Commerce apparently elected to work quite independently of the Committee of Marine. The first step taken by the commissioners was to invite the various chambers of commerce to present their opinions on the subject. The response to this invitation was not at all general. Only four chambers of commerce, those of Bordeaux, Marseilles, la Rochelle, and Saint-Valéry-sur-Somme presented memoirs, and even these were by no means favorable to a thoroughgoing application of the prohibitive idea of the navigation act.²⁴ A particularly able memoir was submitted by the chamber of commerce of Marseilles.²⁵ After a eulogistic survey of the history of the English navigation

²² *Procès Verbal de l'Assemblée nationale*, Dec. 1, 1790, p. 11; Gerbaux et Schmidt, I, 680.

²³ Gerbaux et Schmidt, I, 680. Dec. 1, 1790.

²⁴ Delattre, *Rapport et projet sur la navigation française*. See *Arch. Parl.*, XXXI, 206.

²⁵ *Mémoire pour servir au projet d'un acte de navigation—par la chambre de commerce de Marseilles*.

act and its results, the memoir takes up the trade of France, and particularly of Marseilles with various countries, and points out conveniences that ought to be maintained and inconveniences that ought to be remedied.

It was not until the last days of the Constituent Assembly that the report undertaken on December 1, 1790, was completed. On September 21, 1791, Delattre presented to the Committee of Agriculture and Commerce and representatives of the Committee of Marine his report and *projet de décret*. After some discussion of the *projet*, it was decided to announce to the Assembly that the committees had been engaged on the subject, but that they felt that there was not sufficient time before the adjournment to take up a subject of so much importance, which would necessarily involve a long discussion, and that they had, therefore, decided to limit their action to printing the report and *projet* so that it would be available for the purposes of the legislature when it chose to take up the subject.²⁶

Delattre's report made a very rough combination of the memoir of the chamber of commerce of Marseilles and the *projet* of Ducher. He demanded the extension of the prohibitive system to the merchant marine on the ground of English experience. England had obtained her command of the seas by favoring the merchant ma-

²⁶ Gerbaux et Schmidt, II, 433.

rine; if France now applied the same policy she would get the same results. Commerce deserved protection as the interest of France next in importance to agriculture. Theories of an unlimited liberty of commerce had flourished in the Assembly among the men of the "systems," but the men of practical experience and contact with commerce had recognized its impossibility and rejected it. As for the fears expressed by the chambers of commerce which had submitted memoirs, that French shipping would not be sufficient to carry French commerce, it was to be remembered that in the case of each nation trading with the French, its shipping would also be available. His summary hints at a difficulty which essentially affected the progress of the navigation act: "It is by prohibition," he concludes, "by the exclusion of foreigners, *as far as our existing treaties permit*, that we can serve most efficaciously our shipping."²⁷ It was not until March 1, 1793, when the Treaty of 1786 was denounced, that the way was really clear for the adoption of the Navigation Act.

Since the Committee of Agriculture and Commerce did not intend to attempt to secure the passage of a navigation act by the Constituent Assembly, it is not surprising that Delattre developed only slightly the arguments for it. For a fuller discussion he referred his readers to Ducher's

²⁷ *Arch. Parl.*, XXXI, 202. The italics are mine.

publication: "We recommend to those who wish to devote themselves to the discussion of this proposal to procure the *projet de décret* published by M. Ducher, which is sold at Cussac's in the Palais Royal. It is full of excellent ideas. This is a tribute which the writer of this report believes he ought to render to M. Ducher."

In addition to this direct testimonial of Ducher's influence, Delattre's proposal derives very largely from that of Ducher. Its terms were as follows:

Article 1. No vessel will in the future be regarded as French, nor enjoy the advantages pertaining to national vessels, unless it is of French construction, that is to say, constructed in a port under French control, or unless it was confiscated legally; and finally, unless the captain, officers and two-thirds of the crew are French; but any vessels whatever now flying the French flag and recognized by the admiralities as French property will conserve that character and be regarded as national vessels.

Article 2. The petty coastwise trade, or the transport of goods of any sort from one port of France to another cannot be carried on by any except national vessels. All foreigners are forbidden to carry on this interior navigation under penalty of confiscation of the vessel involved.

Article 3. No goods whatever can be imported except by French vessels or by those of the States where the goods have originated.
so far as they are not consistent with the provisions of

Article 4. The treaties existing between France and the different powers will be maintained and executed until their expiration, and they can be renewed except in so far as they are not consistent with the provisions of the present decree.

The provenance of the first article is obvious. It is derived from Ducher's proposal in his *Analyse* and from Roussillou's proposals of March 1 and 4, 1791. Unlike Roussillou's definition of nationality in the measure passed March 4, 1791, which required only French construction without defining that expression, Delattre's used the terms proposed by Ducher to include prizes and confiscated vessels. On the other hand, the requirement of ownership which Ducher included and which Roussillou omitted was not mentioned in Delattre's proposal. The proviso in favor of vessels actually on the admiralty lists is obviously derived from the second article proposed by Roussillou on March 4. The third article, prohibiting importation of goods except by French vessels and those of the country of origin, is an inexact reproduction of the second article proposed by Ducher in his *Analyse*. The second and fourth articles, however, are new. The second throws a curious light on the unfamiliarity of the writer with his subject. The *petit cabotage*, which he treats as identical with coastwise trade, seems to have been used generally to apply to coastwise trade between ports on the ocean or between ports on the Mediterranean, but not to trade between ports on the two coasts. The term, "interior navigation," seems also to be improperly used in this connection. The exclusion of foreigners from "interior navigation" became an issue in connection with

the Customs Code passed March 24, 1794, and then seems to have referred to navigation on the rivers as distinguished from access to the "external ports."²⁸ The principles of these two articles, however, Ducher later adopted as a part of his proposal.

The introduction of Ducher to the Committee of Agriculture and Commerce by Lafayette, the formal presentation of Ducher's *Analyse* to the Assembly, the fact that it was referred to the committee, Ducher's specific advocacy of the application to the tobacco trade of an exclusive policy, both in the *Analyse* and in his consular reports, the allusion to Ducher's work by Delattre, in addition to the general similarity in terms and in ideas of the proposals of Roussillou and Delattre, are evidence of Ducher's influence which it is impossible to ignore. They are further substantiated by the statement of Marec, who reported the Navigation Act to the Convention in July, 1793. He speaks of Ducher as having "for more than two years pursued the adoption of this proposal with an unwearying constancy as well before the committees of the national assemblies as by the publication of his writings."²⁹ It is at least certain that the proposal to apply exclusive principles to the tobacco trade developed in the Assembly after Ducher had become connected with the Committee of Agriculture and Commerce

²⁸ Gerbaux et Schmidt, IV, 296. See below, page 165.

²⁹ *Arch. Parl.*, LXIX, 143-147.

and even after he had formally presented his *Analyse des lois commerciales* to the Assembly. The question of tobacco duties had been taken up in the latter part of 1790; but neither Roederer nor Rewbell, who seem to have been principally concerned in the discussion, approached the subject from other than a purely fiscal point of view. A completely valid historical connection between Ducher and the Tobacco Act of March 1 seems impossible to establish, but a careful examination of his later career will add to the evidence a strong presumption that he was, if not the prime mover, at least closely connected with the restrictionist legislation of the Constituent Assembly and the development of Delattre's proposal.

In the Legislative Assembly no attention was paid to the report of Delattre, which had been printed and distributed to members, until on March 25, 1792, on the motion of Lacuée, it was taken up and referred to the Committees of Diplomacy, of Marine and of Commerce.³⁰ The minutes of the Committees of Marine and of Commerce do not contain any indications that the proposal was ever taken up by either committee. The question was almost entirely lost sight of in the furious conflict that was waged between the protectionists and the free traders over the question of the free ports.³¹

³⁰ *Arch., Parl.*, XL, 477.

³¹ For the question of the free ports, see below, Part III, chap. 3.

Mosneron, a prominent member of the Committee of Commerce, and the leader of the attack on the free ports, strongly favored the adoption of a navigation act. In 1791, as "député extraordinaire du commerce de Nantes," he had written a pamphlet supporting³² such a measure, apparently in response to the invitation of the Committee of Commerce.³³ It was attacked by Clavière in his *Adresse de la Société des Amis des Noirs*.³⁴ Mosneron's bill for the abolition of the free ports provided an opportunity to apply the principles of the navigation act, by establishing a general system of entrepôt, the privileges of which were to be restricted to goods brought in French vessels or in vessels of the country of origin.³⁵ In one of his pamphlets³⁶ he announced that his committee would soon present a report on the navigation act which had been referred to the Legislative Assembly by the Constituent. Neither of these measures, however, were actually presented to the Legislature and they remained subjects of contention between the Committees of Commerce and Marine.

³² *Opinion de M. Mosneron l'ainé, député extraordinaire du commerce de Nantes, sur le projet d'établissement d'un acte de navigation en France* (16 janvier, 1791).

³³ See above, page 50.

³⁴ Second ed., p. 143, note. For the relation of the Girondists to Ducher's policies, see below, Part IV, chap. 1.

³⁵ J. Mosneron, *Rapport sur les ports francs*.

³⁶ *À Mes Collègues*, May 14, 1792.

Ducher's connection with Mosneron, if it existed, remains obscure. It is not possible to say that he had any connection with Mosneron or how much influence he had upon Mosneron's ideas. He was at the time engaged in an effort to secure payment of a claim for salary and indemnity, for the expenses of his voyage to America and "extraordinary services" which he had rendered as consul, as well as for the losses which he had suffered in shipwreck.³⁷ It may very well be that he regarded it as advisable to abstain from the conflict then waging between the free traders and the protectionists, inasmuch as the Committee of Marine which would have to pass on his claim was dominated by Serane, the leader of the free traders. On the other hand, it is significant that he later adopted Mosneron's proposal to substitute a system of entrepôts for the free ports.

Meanwhile Ducher had established that connection with the *Moniteur* which was so large and so important a part of his career. His first article, in the *Moniteur* of February 14, 1792, was nothing more than a simple letter of transmittal accompanying a table of the results of the United States census of 1790, with some explanation of the system of representation and taxation. The series of articles thus begun continued until June 15, 1796, and mounted to a total of sixty-one different titles. They covered a wide range of sub-

³⁷ *Arch. Nat.*, D. XVI, 13, No. 291, Apr. 16, 1792.

jects in the fields of commerce, finance, diplomacy, international politics, and administrative reorganization. Except for two or three that were non-political in character, and part of the articles on various phases of international politics, all of the articles were written for the promotion of very definite measures. In view of this close connection with his legislative activities, a separate treatment of the articles here is undesirable and impracticable. It is necessary, however, to point out one general characteristic. Ducher was in the habit of publishing memoirs in the *Moniteur* after he had presented them to officials or committees. Sometimes the original use of the article was explicitly stated, as in the case of the article "Sur la Dette et sur les Assignats,"³⁸ and "Agitation officieux."³⁹ Sometimes it is implicit in the form of the article,⁴⁰ sometimes in the subject matter.⁴¹ This practice on his part was so usual that I have not hesitated to use it as a means of interpreting some of his articles where the original use is not clearly evidenced.

The fourth article of this series, in the *Moniteur* of June 15, 1792, Ducher devoted to an argument for a navigation act. Using the statistics appended to Delattre's report, he pointed out the

³⁸ *Moniteur*, Apr. 23, 1793.

³⁹ *Ibid.*, Aug. 2, 1793.

⁴⁰ "Aux commissaires de la trésorerie nationale," *Ibid.*, March 5, 1792.

⁴¹ "Manufactures anglais," *Ibid.*, Feb. 27, 1793.

low state of the French merchant marine, and the contrast between the status of an English vessel in a French port and that of a French vessel in an English port. While in French ports English vessels paid only the same duties as French vessels, in English ports, French vessels paid four guineas more for each ton of French wine imported than did English vessels, and were subject to confiscation if they carried products or manufactures of other than French origin. France, he urged, ought to adopt this prohibition of indirect importation. Any nation which did not have such a prohibition was, as to freight, tributary to other nations, especially to that one which did not accord it reciprocity in that respect. The French marine had a right to claim the 25,000,000 livres which the Americans, the Dutch and the English got for carrying goods to and from France.

In conclusion Ducher set forth, in form, the act which he desired the Assembly to pass. The first and third articles are identical with the two articles he had proposed in 1790 in his *Analyse des lois commerciales*, except that the requirement that all the crew be French is reduced to three-fourths. In addition a provision like article 2 of Delattre's *projet*, excluding foreign vessels from the coastwise trade, was included.

Several important differences, however, are to be noted between this proposal of Ducher and that of Delattre. (1) The provision in the proposal of Delattre, that all vessels, of whatever origin,

navigating at the date of passage of the decree under the flag of France, and recognized by the admiralties as French property, will conserve that character and will be counted as nationals, is entirely omitted from Ducher's *projet*. (2) The prohibition in Delattre's proposal of the transport from one port of France to another of any sort of merchandise by other than French vessels, is limited in Ducher's to products of manufactures of France or of French possessions. (3) Delattre's proposal to exclude foreign vessels from all interior navigation is omitted by Ducher. (4) Delattre would not permit importation by vessels belonging to the subjects of the sovereign of the ports of sale and first exportation, as Ducher proposed to do. (5) Ducher omits Delattre's article providing that the existing treaties should be maintained and executed until their expiration.

The Legislative Assembly came to an end without having disposed of any of the questions of commercial importance which had confronted it, and almost without having contributed to their solution. The legacy of a navigation act which had been left to it by the Constituent, wrote Barère, could not have been taken advantage of by a legislative assembly "more concerned with the destruction of the throne of the Capet family than with attacks on the scepter of the family of Hanover."⁴² It was left to the National Convention to reorganize the commercial life of the nation.

⁴² *Arch. Parl.*, LXXIV, 598.

CHAPTER II

THE ACT OF MARCH 1, 1793

The next phase of Ducher's career begins with the Convention and culminates with the passage of the Navigation Act on September 21, 1793. It will be necessary to treat in this connection his "alliance" with Barère, his relation to the famous act of March 1, his influence in the Department of Foreign Affairs, and the change in his official status, as well as the story of the act itself.

The replacement of the Legislative Assembly by the Convention greatly increased Ducher's activities. From the opening of the Convention, his articles in the *Moniteur* follow in rapid succession. Seven appeared between September 24, 1792, and November 4, 1792, more than during the preceding eight months which had passed since his connection with the *Moniteur* began. According to Masson,¹ the rejection of Ducher's claims for extra compensation for his services as consul by the liquidators threw him into the ranks of the extreme radical party and led to an intimate connection with Barère—"le fournisseur d'idées de Barère," Masson calls him. That he established a connection with Barère is substantiated by the fact that from February until October,

¹ *Le Département des Affaires Étrangères*, pp. 240-241.

1793, it was by Barère that most of his proposals were presented in the Convention or in the Committees of General Defense and of Public Safety. It is not necessary, however, to attribute Ducher's change of party to so base a motive. It was quite impossible to gain support for a protectionist policy, such as Ducher was devoting his energies toward promoting, in a group of which Clavière and Brissot were leading figures, and therefore it was not unnatural that he should find his place in the party that was pre-disposed to nationalistic ideas.

During the early months of the Convention, Ducher was concerned principally with an affair carried on almost wholly within the Executive Council—the attempt to utilize the American debt in the purchase of subsistences in the United States. It was of great importance in determining his political relationships, but has almost no immediate connection with his legislative program.² It was only with the beginning of war with England that Ducher's influence began to manifest itself in the development of legislation. He played a very important part in the preparation of the various war measures of the month of February, 1793, and especially in the culminating act of March 1, by which the treaty of 1786 was denounced and English goods excluded from France. The evidence of Ducher's relation to this legislation is so complex and indirect that in

² It is treated separately, below, Part IV, chap. 2.

order to appraise his influence accurately it is necessary to state the course of development with some fulness.

The steps in the development of the decree of March 1 were as follows. On January 29, when the expulsion of Chauvelin, the French Minister at London, became known, the Executive Council adopted several measures in anticipation of the declaration of war by the Convention. The Minister of Foreign Affairs was directed to notify the Convention of the expulsion of Chauvelin. Dumouriez was to be advised of the situation and directed to prepare for a campaign against Holland. The Minister of Marine was directed to prepare all the despatches necessary in order to put an embargo on all enemy ships as soon as the Convention had acted upon the news of Chauvelin's expulsion. The Minister of Public Contributions was directed to announce to the Customs Administration, as soon as the Convention had acted on that point, that the treaty of 1786 was broken, and to order in consequence that the entry of all English goods into France should be prevented. The Minister of Marine was likewise directed to order the vessels of war of the Republic to seize merchant vessels under the enemy flags, and to issue letters of marque "which he will cause to be drawn up provisionally according to the old regulations."³

³ *Actes du Comité de Salut Public*, II, 22.

The next day, January 30, Lebrun, the Minister of Foreign Affairs, in accordance with his instructions, reported the expulsion of Chauvelin to the Convention. Upon motion by Boyer-Fonfrède, the Convention authorized the Executive Council to take "all the measures of security and precaution which the interest of the State demands."⁴ On the same day, in pursuance of this authorization, the Executive Council ordered that the program which had been decided upon in their session of January 29 should be executed.⁵ On February 2, on the motion of Garat, Minister of the Interior *ad interim*, a proclamation denouncing the treaty of 1786 was made by the Executive Council.⁶

The authority of the Executive Council to take such a step was promptly questioned in the Con-

⁴ *Arch. Parl.*, LVIII, 47.

⁵ *Actes du Comité de Salut Public*, II, 26.

⁶ *Ibid.*, p. 53. The proclamation was made February 2, but was not noted in the minutes until February 4, when a formal action was taken for the purpose. See also *Arch. Parl.*, LIX, 510.

A tantalizing bit of evidence indicates the possibility that the rupture of the Treaty of 1786 had even an earlier inception. In two manuscript indexes (*Arch. Nat.*, AF II 5a, *Répertoire des séances du conseil exécutif provisoire*, and 5b, *Table des délibérations du conseil exécutif*), of the minutes of the Executive Council an item is noted under the heading *Douanes* in the following terms: "order aux (.) [douanes] de ne laisser entrer aucunes marchandises anglaises dans la république, 82^{me} session T. I, p. 265," but in the record of that session on that page of that volume nothing about such an order appears, nor does a careful search through the whole series of minutes yield any such order. No explanation seems possible except on a purely conjectural basis.

vention,⁷ and the proclamation was thereupon referred to the Committees of General Defense, of War and of Commerce, to be reported upon the next day, February 5.⁸ The first named committee, through its president, Guyton, invited the other committees to propose a time and place of meeting.⁹ The Committee of Commerce, in response to this invitation, declared that it approved the proclamation and proposed that it should be made into a decree. Blutel, the president of the Committee, and Mellinet, its secretary, were commissioned to present this conclusion to the Committee of General Defense.¹⁰ Accordingly, Blutel and Mellinet appeared at the evening session of that committee and presented this report, and, apparently, the terms of the proclamation embodied in a *projet de décret*. In spite of its previous urgency, the Committee of General Defense, after some consideration of the proposal, postponed the whole question.¹¹

The matter remained in the hands of Blutel as reporter for the Committee of Commerce until the last week of February. On the twenty-first, the Diplomatic Committee requested that the report when finished should be communicated to it, and

⁷ *Arch. Parl.*, LIX, 50.

⁸ Gerbaux et Schmidt, III, 732.

⁹ *Ibid.*, Feb. 4.

¹⁰ *Ibid.* The session of the Committee of Commerce was adjourned at 4 p. m.

¹¹ *Actes du Comité de Salut Public*, II, 51.

on the twenty-third, the Committee of Commerce directed Blutel to "communicate it without delay."¹² A few days later, the report was again submitted to the Committee of General Defense. This Committee devoted to it "a long discussion," of which the minutes give no details, and finally approved it.¹³ The next day the Committee of Commerce gave its formal approval. The report and the *projet de décret* are printed in its minutes exactly as passed, without any indication of previous or later modification.¹⁴ On March 1, the report was submitted to the Convention by Blutel.¹⁵

On the basis of the principles set forth by Blutel, the Convention adopted the famous Act of March 1. Article I annulled all the treaties of alliance or of commerce between the old government of France and the powers with which the Republic was at war. Article II prohibited entirely the importation of certain specified classes of goods, particularly hosiery, the origin of which was presumably English, while Articles III and IV required after April 1, 1793, certificates of neutral origin, furnished by French consuls, with all imports. Article V provided for the sale of goods confiscated in accordance with Articles II,

¹² Gerbaux et Schmidt, IV, 6.

¹³ Feb. 25, 1793. *Actes du Comité de Salut Public*, II, 192.

¹⁴ Gerbaux et Schmidt, IV, 11. There is some reason to distrust the correctness of the minutes of the Committee in reference to the final form approved by the Committee, as the secretary seems sometimes to have inserted instead the act as passed by the Convention. See below, p. 165, note.

¹⁵ *Arch. Parl.*, LIX, 510.

III, and IV, and for a reward of half the product to private persons who might have denounced the violations of the act or aided in the arrest of the offenders. Article VI excepted from the operation of the act goods taken on prizes, and certain classes of naval supplies. Article VII excepted also goods on board vessels shipwrecked on the coasts, which were permitted to enter upon payment of special duties. Article VIII was designed to assure neutral nations of the good faith of France, and of the intention of the National Convention not to injure bona fide neutral commerce.¹⁶

The connection of Ducher with this series of events is impossible to deny and, at the same time, difficult to define. It seems probable that he had some connection with the Executive Council and its program of January 29. On February 12, he published in the *Moniteur* an article advocating a navigation act, which, from its tone and purport, seems to have been itself addressed to an official body. In this article he says, "I have argued for the embargo, for privateering, for bounties, for the division of prizes in proportion to pay. I have demanded that the embargo shall include vessels of foreign ownership under the French flag." To whom were these arguments addressed? The only evidence points to the Executive Council. Two of the war measures, which,

¹⁶ For the text of the Act, see *Moniteur*, Mar. 2, 1793; Duvergier, *Lois*; Baudouin; and many other places.

according to his own statement, he had argued for, the embargo and raids on commerce, were identical with measures decided upon by the Executive Council in its session of January 29. That another, the division of prizes according to pay, was in question at the same session, is suggested by the decision that the letters of marque should be drawn up in accordance with the previous regulations.¹⁷ It is noteworthy that he does not mention, as one of the measures he had been "arguing for," the rupture of the treaty of 1786, and the prohibition of English goods. The casual, unexplanatory way in which these measures are mentioned in the article of February 12, seems to suggest that that utterance also was addressed to persons already familiar with the measures and Ducher's relation to them. On the other hand, if these arguments of Ducher's were not addressed to the Executive Council it is difficult to imagine where else they could have been presented. They do not appear in his articles in the *Moniteur*. The minutes of the Committee of General Defense, of the Committee of Commerce, and of the Committee of Marine do not furnish any indication, either of Ducher's appearance before any of those committees for any such purpose, or of the consideration, in any one, of such a series of measures. The conclusion is almost inevitable that

¹⁷ See above p. 64. The bounties to which he referred were, presumably, those provided by the Act of February 2, for privateers who brought in cargoes of food stuffs. *Arch. Parl.*, LVIII, 164.

Ducher had a very distinct connection with the Executive Council, and in all probability a very positive influence on the war measures of the end of January and the beginning of February. That this influence extended to the proclamation of February 2, is much less positively indicated, indeed it can only be inferred from his connection with the later development of the act and from the close relation which it bore to the main object of his propaganda.

The connection of Ducher with the Committee of General Defense rests upon more positive evidence. His presence is noted in the minutes of three meetings of the Committee before March 1. In the session of February 2, he appeared to present his ideas on the "means of preserving the colonies"; they were referred to Boyer-Fonfrède who was engaged at the time in preparing the act of February 19, admitting American vessels to the French colonial trade.¹⁸ February 28, 1793, he appeared before the Committees of General Defense and of Commerce, perhaps in informal joint session,¹⁹ and presented a memoir on the embargo

¹⁸ Duchers' ideas were not, however, in accord with those of Boyer-Fonfrède. See below, page 201.

¹⁹ The session of the Committee of General Defense began at 7 P. M.; that of the Committee of Commerce, which was a special session, adjourned at 9, presumably P. M., as its meetings seem to have been held in the evening. Both Committees, however, have minutes of the Ducher hearing, and each transacted other unimportant business. Gerbault et Schmidt, IV, 14; *Actes du Comité de Salut Public*, II, 223.

and some other measures relative to the impediments which it was necessary to offer to English commerce.²⁰ This memoir dealt with the prevention of "la fraude qui peut s'introduire dans le commerce sur mer pendant la guerre actuelle,"²¹ that is to say, what he elsewhere calls "françisation frauduleuse," or the transfer of British capital to French shipping and the use of the French flag to cover enemy's goods and ships. This was apparently the measure which he says, in the article of February 12, he had demanded: "that the embargo should include vessels of foreign ownership under the French flag." Ducher was invited to transmit a copy of the memoir and of his proposal to the Committee of Commerce, and honorable mention of his "civism" ordered to be made on its minutes. A few days later, he presented his memoir again before a special session of the Committee of General Defense.²² The Committee decided certain earlier laws on that subject should be put into effect,²³ but postponed consideration of the methods of execution.

²⁰ *Actes du Comité de Salut Public, loc. cit.*

²¹ Gerbaux et Schmidt, *loc. cit.*

²² "On fait une nouvelle lecture de son memoir," etc., *Actes du Comité de Salut Public*, II, 270.

²³ *Arch. Parl.*, LXXIV, 598. When Barère later proposed this same measure, he said in part: "Le despotisme lui-même avait senti cette atteinte portée à notre commerce maritime; il l'avait pros crit à plusieurs époques; mais ces lois nombreuses ne seraient exécutées parcequ'il n'y avait attrait la denonciation de ses simulations de capitaux."

It is, however, Ducher's appearance at an earlier session, that of February 21, that most positively indicates a direct influence upon the act of March 1. In the midst of a record of the long and busy session occurs this paragraph: "Ducher vient communiquer au Comité des mesures qu'il croit utiles pour exciter les manufactures et le peuple anglais contre les ministres et le gouvernement de la Grand Bretagne; *ces mesures tendraient à prohiber toute importation en France de marchandises anglaises* et seraient d'autant plus avantageuses que tout ce que nous tirons de l'Angleterre n'est que de pure fantaisie et que, au contraire, ce que les anglais tirent de la France leur est de la plus grande nécessité."²⁴

In the *Moniteur* of February 27, Ducher published a short article which is probably the exordium of this address. It is so important for the point in question that it needs to be quoted in full: "The importation of merchandise is not yet prohibited by decree! It is imported by packet-boat from Dover to Calais and from Holland by land. A French vessel in a neutral port, a neutral vessel in an English port can load it and import it into France! Meanwhile George has held up the grain and flour from Philadelphia which the ex-minister Roland bought in England and paid for with precious specie. George is one of the most ardent enemies of our liberty; the English people who

²⁴ *Actes du Comité de Salut Public*, II, 171.

ought to love us now that we are free since they hated us when we were slaves, will endure George's war against us if it doesn't injure the commerce that enriches them. Ought we to trade with a people who submit to paying taxes for an attack upon us—us who have wished to bind ourselves more closely to them? Ought we, to the injury of French manufactures, consume the results of their industry, aid in their prosperity, while they contribute to our destruction? Ought we increase, by our purchases, the receipts of the English customs, the corner stone of George's throne, of his public debt, of the bank, of the fleet and the capital of the best *subjects of the Stadtholder*,²⁶ another of our enemies? All these great interests, these means of war against us, depend on English commerce. Let us hasten, then, to prohibit, under penalty of confiscation and sale for the benefit of the republic, *with a reward of half of the net product to the informer or seizer*,²⁶ the importation of English merchandise by French or neutral vessels or by land. As politics and as war, it is a measure that will incite the English people to object to being impoverished by George because he hates our liberty and to demand of him compensation from his civil list and his private fortune.

“The prohibition will cease the day peace be-

²⁶ Ducher's italics.

gins again. On that occasion the French nation will be forward to offer and to demand of the English people as much reciprocity as liberty in trade."

The coincidence between the terms of the description in the minutes of the committee and of the article by Ducher, on the one hand, and the actual terms of the decree on the other, point unmistakably to the conclusion that Ducher was advocating the decree before the Committee. Indeed if this evidence stood alone, it would perhaps be superfluous to discuss further Ducher's relation to the Act of March 1. This is not the case. It is to be borne in mind that it was the Committee of Commerce, and not the Committee of General Defense, that had in charge the preparation of the decree and finally presented it to the Convention. The available evidence does not indicate any direct connection on the part of Ducher with the Committee of Commerce before February 28, after the *projet* of Blutel had been finally approved. Whatever influence he exerted must have been through the Committee of General Defense. That Committee's share in the framing of the act had been limited to two occasions. On February 4, it had heard Blutel's proposal to convert the proclamation into a decree, and had adjourned it; it may be guessed that the adjournment was for the reason that Blutel, in the brief interval between the meeting of his own Commit-

tee and that of General Defense²⁷ had not been able to provide the machinery of execution and other details, lacking in a proclamation, which would be necessary in a decree. On February 25, *after a long discussion*, the Committee had approved Blutel's proposal, somewhat developed, it may be presumed, since February 4. The minutes do not indicate whether or not any modifications were made in the *projet* as a result of the long discussion. To this rather inconclusive end, and no further, our external evidence leads us.

The internal evidence to be derived from the act itself is slight, but wholly favorable to attributing to Ducher the authorship of the decree, or at least a large share in framing it. The requirement of consular certificates of neutral origin, which according to Montalivet was introduced into French practice by the act of March 1,²⁸ at once recalls the system of consular passports which Ducher originated and established at Portsmouth and at Wilmington during his consular career.²⁹ Similarly Article V, providing that half of the net product from the sale of goods confiscated should go as reward to private persons who had denounced the acts in violation of the

²⁷ See above page 66.

²⁸ *Arch. Nat.* AF IV, 1241. Minutes of the *Conseil du Commerce*, Sept. 10-Dec. 24, 1810. Report of Montalivet on certificates of origin. For this reference I am indebted to Professor F. E. Melvin.

²⁹ See above page 26.

decree or assisted in the capture of the goods, was one of Ducher's favorite ideas. Not only did he emphasize it in his article of February 27, but he advocated it in several other of his articles in the *Moniteur*, notably of June 29, 1792, and July 3, 1793, and it was embodied in his later acts of September 21, 1793, of October 18, 1793, and of March 24, 1794.³⁰ Finally the declaratory Article VIII, which avowed the "loyalty of the French nation" to the obligations of international law, finds at least a counterpart in the introductory article which appears at the head of both of Ducher's two great legislative acts, the Navigation Act of September 21, and the Customs Code of March 24, 1794: "The treaties of navigation and of commerce existing between France and the powers with which she is at peace, will be executed according to their form and tenor." A similar article appeared in the *projets* of Delattre and of Marec³¹ which failed of passage.

Such is the evidence of Ducher's connection with the Act of March 1. It is impossible to question that he was closely, even vitally, connected with the progress of the proposal through the committee stage, or even that he was the source of some of the provisions. It is less certain but still probable that he exercised some influence upon the Executive Council while it was engaged in preparing the program of January 29,

³⁰ See below pages 109, 115, 166.

³¹ See above page 53 and below page 96.

which included the proclamation of February 2. Most uncertain is Ducher's connection with the Committee of Commerce, and the degree to which Blutel, the reporter of that committee, modified the proclamation of February 2, and his title to the authorship of the decree. On the whole the balance of probability is turned in favor of Ducher's authorship, especially when due weight is given to the fact that his recorded activity in such relations is less than the actual; and secondly, to the vital significance of the act for the great aim of Ducher's propaganda.

Whatever the degree or quality of Ducher's relation to the Act of March 1, there can be no question of the supreme importance of that act for the commercial history of France and of Europe, as well as for the progress of the navigation act. It marked the crisis of the Revolution as a commercial revolution. It was the first great victory of the protectionists, and meant a complete break with the liberal policy of reciprocity which had characterized the latter days of the "Ancien Régime," and of which the Treaty of 1786 had been the great achievement, as it was intended to be only the first of a series. The way was now clear for all sorts of nationalistic discriminations against foreign trade and commerce. No one was quicker to recognize this than Ducher himself. "Now is the decisive moment," he writes in his article of February 12, advocating a navigation act.

CHAPTER III

THE COMMITTEE OF PUBLIC SAFETY AND THE NAVIGATION ACT

The act of March 1 was a great victory for protectionism, but the control of the Convention still remained in the hands of the Girondists. It was soon to pass, however, into the more vigorous hands of the first Committee of Public Safety, to which on April 7 the Convention entrusted the supreme executive power, and, virtually, the control of the course of legislation. The Committee of Public Safety was proposed by a Girondist, Isnard, but of the nine members only one, Lacroix, was of that party, while the leaders of the Committee were Danton, Cambon, and Barère. The influence of Barère at once afforded the opportunity for the introduction of Ducher's ideas. Ducher himself was given an official status which regularized the lobbying activities in which he had been engaged ever since he was introduced to the Committee of Agriculture and Commerce of the Assembly by Lafayette in 1790. For this purpose, apparently, a new bureau was created in the Department of Foreign Affairs.

On March 23, 1793, Lebrun had proposed to the Convention the payment of some kind of indemnity to the diplomatic agents out of employ-

ment on account of the war. The proposal was referred to the Committees of Diplomacy and Finance, but it does not appear that any action was taken on the reference. On May 14 Lebrun pointed out to the Executive Council that many of the consuls of France in foreign ports were not permitted to fulfill their functions, and that it was improper either to pay them when they did nothing or to discharge them without offense on their part. The interests of the Republic and of the consuls, he suggested, might be reconciled by using in the Department of Foreign Affairs the knowledge which they had acquired in the course of their service.

Upon this suggestion, the Council, after having deliberated, decreed that the Minister of Foreign Affairs should at once call to Paris all the consuls of the Republic whom the war prevented from returning to their posts or who had been expelled by the hostile powers. These consuls should be employed, under direct supervision of the Minister, in the "verification" of all the old treaties of commerce between France and the other nations of Europe. In regard to these treaties they were to make all the observations which their experience in matters of commerce would suggest, for the purpose of preparing new bases for the treaties to be made with the various powers. The salaries were to be determined by the Minister, but none was to exceed the limit of 8,000 livres, the limit fixed for the heads of bureaus.

The Minister was directed to consult the Committee of Public Safety to learn if it was necessary that this decision should be ratified by decree.¹ The Committee of Public Safety was apparently of the opinion that a decree was necessary. At the session of May 25, 1793, Barère was directed to propose to the Convention a decree providing that "there should be established a *commission*, composed of all the agents hitherto employed in foreign countries, to review the treaties and to present ideas and plans in regard to political relations and commercial treaties, under the inspection of the Minister of Foreign Affairs and the surveillance of the Committee of Public Safety."²

The final form of the decree which was passed by the Convention May 30 on the report of Cambon³ differed still more significantly from the proposal of Lebrun. A *bureau diplomatique et commercial* was created, which was to be composed, not of all the consuls out of employment, but of members chosen from among the political agents and the consuls and vice-consuls *juriconsultes*, that is to say, of legal training. Its functions were to include the review of the old treaties and the examination of the various industrial and

¹ *Actes du Comité de Salut Public*, IV, 163. Minutes of the Executive Council, May 14, 1793.

² *Actes du Comité de Salut Public*, IV, 318. It is interesting to note that this proposal was coupled with another to instruct the Committee of Marine to prepare immediately a navigation act.

³ Not Barère, as the Committee had directed.

commercial relations of France with the several nations. No provision was made in regard to salary. It is perhaps needless to point out that the first requirement was a limitation which would include Ducher and that the function of examining the industrial and commercial relations of France coincided very closely with the work he was doing unofficially.

According to Masson, Ducher was the only consul appointed to this bureau, which never received formal organization.⁴ He continued to draw the salary, 9,000 livres, attached to the position of *agent de la marine et du commerce* at Bristol, England, to which he had been given a provisional appointment late in 1792 when his old post at Wilmington, North Carolina, was abolished in a general reorganization of the consular service in America.⁵ He seems to have functioned in this capacity until Talleyrand's time, to whom, in one of his numerous letters claiming reward, financial or political, for his special services, he wrote, "Your department had a bureau of employees engaged in the study of the old treaties and in the preparation of memoirs on the treaties to be concluded: did I not submit to you the best

⁴ Masson, *Le Département des Affaires Étrangères pendant la Revolution*, 241. Several statements of the organization of the Department of Foreign Affairs during this period are available and none of them mentions the bureau.

⁵ Ducher to the Minister of Marine, December 31, 1792. *Arch. Aff. Étr.* (unclassified).

outline for a treaty of commerce?"⁶ Nevertheless, Ducher's status remained equivocal. The Executive Council in September, 1793,⁷ and the Committee of Public Safety in Frimaire, An III,⁸ considered it proper to pay him for his services in connection with the navigation act and the reorganization of the customs service by special acts.

With the creation of the committee of Public Safety, the navigation act was adopted as a part of the program of vigor and action for which the Committee stood. In the earlier months of the Convention, the idea of a navigation act had received but little attention. On January 20, 1793, in reporting a proposal to have the navigation duties collected by the national customs service, Gillet, a member of the Committee of Finance, had insisted that these duties should not be regarded merely as sources of revenue, but also and chiefly as a means of encouraging the national shipping trade. With a proper merchant marine, he declared, France would be able to compete successfully with any nation on earth, but to enjoy that advantage, a navigation act was necessary, such as had been proposed in the last days of the Na-

⁶ Ducher to the Minister of Foreign Affairs, Feb. 14, 1798. *Arch. Aff. Étr.* (unclassified).

⁷ Ducher to the Committee of Public Safety, Nov. 22, 1793. *Arch. Aff. Étr.* (unclassified).

⁸ Receipt for 12,000 livres signed by Ducher, Nov. 30, 1794. *Arch. Aff. Étr.* (unclassified). A general discussion of Ducher's official relations with the government will be found in Appendix IV, below.

tional Assembly.⁹ On January 29, 1793, Castillon had made a report to the Committee of Commerce on the bases upon which the tonnage duties ought to be determined, which shows very distinctly the influence of the same idea. He proposed that the coastwise trade should be free from tonnage duties, "because it ought to be reserved to French vessels three-fourths of whose crew were Frenchmen"; that in regard to "direct" trade there should be perfect reciprocity in tonnage duties; and that tonnage duties should be rigorously required of all vessels engaged in "indirect" trade. "The duty ought always be fixed in such a way as to secure for us an advantage in importing or exporting ourselves the products of our industry and that of the nation to which we wish to sell them."¹⁰

The Committee, while "appreciative of the great political objects which the proposal presented," was of the opinion that the existing circumstances demanded the adjournment of the subject.¹¹ Indeed, for the next few months, in the crisis produced by England's entry into the war, commercial legislation followed quite the opposite tendency. The law of May 13, 1791, which prohibited the importation and sale in France of ships and vessels of foreign construction was promptly suspended.¹² The tonnage duties were suspended,

⁹ *Arch. Parl.*, LVI, 67.

¹⁰ Gerbaux et Schmidt, III, 718-719.

¹¹ *Ibid.*, III, 714.

¹² *Arch. Parl.*, LVIII, 164. Feb. 2, 1793.

first for Genoese and other vessels carrying food supplies to the ports of the Republic,¹³ later for foreign vessels engaged in the coastwise trade between the Ocean and the Mediterranean.¹⁴ It was even proposed to abolish the duty entirely.¹⁵ The acts of February 19 and May 19 threw open the colonies in the West Indies to the trade of the United States. The Girondist leaders, inadequate to the war which they had done so much to bring upon France, indifferent to the colonies, and predisposed against restrictive commercial legislation, found these duties and prohibitions a convenient sacrifice to the exigencies of the situation.¹⁶

Against this policy of relaxing commercial restrictions, the Committee of Public Safety soon set itself. On May 25, Barère was directed to propose that the Committee of Marine should be instructed to prepare an act of navigation.¹⁷ The recommendation of the Committee had already been carried out. On May 20, 1793, Bourdon de l'Oise¹⁸ moved in the Convention that the Committees of Diplomacy and of Marine be directed to prepare and present as soon as possible a plan for a navigation act. His motion was ap-

¹³ *Ibid.*, LXI, 7, 8. March 31, 1793.

¹⁴ *Ibid.*, p. 418, April 8, 1793.

¹⁵ Gerbaux et Schmidt, IV, 59.

¹⁶ See Part IV, Chapter 1, for a fuller discussion of the relation of these and similar questions to the Girondin-Montagnard conflict.

¹⁷ *Actes du Comité de Salut Public*, IV, 318.

¹⁸ Later very closely associated with Ducher.

proved by the Convention and the Committee of Commerce added to the other two.¹⁹ A few days later Lebrun announced to the Convention that he also was engaged in collecting all the materials necessary for such an act.²⁰

In his report of May 29 on the state of France, Barère urged the navigation act as an important part of the aggressive program which the Committee was advocating. "Cast your eyes on the table of the navigation of Europe: see the evils which the English navigation act has brought upon our wealth and our industry. Say a word, pronounce a decree, and the flags controlled by George on all the seas will proceed to disappear before the colors of liberty. . . . The Committee will examine all the consequences a navigation act can produce for France. A simple law, three articles, will suffice to disarrange the avaricious calculations of the English government, to raise the French to the utmost use of their powers, and to ravish from the tyrant of the seas the sceptre usurped by the corruption and intrigue which he has employed in the European courts."

The Committee, he announced, was also engaged in finding means to discover and prevent for the future the "françisations simulées," particularly to enforce the old laws on this subject, and would soon present a proposal.²¹

¹⁹ *Arch. Parl.*, LXV, 115-116.

²⁰ *Ibid.*, p. 253. May 24, 1793.

²¹ *Ibid.*, p. 568.

Ducher had meanwhile been carrying on a vigorous educational campaign for a commercial system and particularly a navigation act. His article of June 29, 1792, has already been reviewed. Another article²² set forth the restrictions on foreign vessels and the advantages reserved to English trade in the English West Indies, with the sententious comment: "Statesmen will appreciate the importance without any need on my part of developing it further." In an argument for free trade in grain²³ he pointed out the heavy loss to France resulting from the purchase of American grain in England: "The English nation profits from the freight and from the commission and receives specie for the grain which was paid for with merchandise of its own manufacture."

A little later he advocated the prohibition of "indirect importation" of any commodities or products of the United States.²⁴ "These two daughters of liberty who have the same sovereign, the rights of man and equality, ought to proscribe all indirect importation which renders them tributary to foreigners; they ought, by laws which their common and separate interests command, to bar foreigners from all profits of commerce and navigation made off of either branch of this new family by means of the products and merchandise of the other."

²² *Moniteur*, Sept. 7, 1792.

²³ *Ibid.*, Sept. 24, 1792.

²⁴ *Ibid.*, Oct. 1, 1792.

The Americans actually did control, he pointed out, the greater part of their own carrying trade. Of the rest, England controlled six-sevenths, while France had only about one-twentieth. France controlled only a little over one-fourth of her own carrying trade, less than England and Holland together. The "indirect navigation" which France still tolerated amounted to nearly one-third of the tonnage of the commerce of foreign nations with her. "Frenchmen, Americans," he cried, "cannot your flag be sufficient for the trade between you? Do you lack vessels and sailors? Have you neither timber nor builders? Are not the fourteen ship-building centers of the United States and the fifteen of France, equal in ambition and energy to the seven or eight of England?"

Ducher did not, however, allow his advocacy of the navigation act to depend on the responsive action of the United States. Whatever their policy, it was time, he held, that France should recover the place that belonged to it in the world's commerce. The new commercial code of the French ought to interdict all indirect importation. At the very least the Convention "pour nous, pour eux," ought not to hesitate to decree, "no products or articles of growth of the United States of America, the importation of which into France and into the French colonies or possessions is or will be permitted, can be there imported except

directly from the said States and upon French or American vessels."

In an article advocating an alliance between the two republics,²⁵ he returned to the same theme, pointing out that the mutual development of the navigation of each power would result from a common exclusion of foreign vessels. In a comparison between the customs service in the United States and in France,²⁶ he seized the opportunity to point out the small place of the French marine in American tonnage statistics, and to bring out the statement that "England and her colonies were the greatest direct receivers of American exports, while France and her colonies were the greatest consumers."

In a scheme to secure prompt payment of the American debt by accepting commodities or products of the United States,²⁷ Ducher repeated the proposal made in his article of October 1, 1792. In an article on the price of grain in France, he denounced again the practice of buying grain in London "at second hand." "We pay two freights, two insurance premiums, the commission, besides the profits of the English first purchaser, while the French ministers pay in letters of exchange or in specie for the grain which the

²⁵ *Moniteur*, Oct. 30, 1792.

²⁶ *Ibid.*, Oct. 15, 1792.

²⁷ *Ibid.*, Jan. 11, 1793.

English have received in exchange for merchandise of their own manufacture.”²⁸

The outbreak of war with England naturally enough gave a great impulse to Ducher's campaign for a navigation act. No longer was war the price of a navigation act. All the countries which could object to such an act on the part of France were already at war with her. The motive of retaliation was a strong counterbalance to the immediate difficulties. It was the final basis to which the arguments for the navigation act were reduced; the speech of Barère reporting the act for its final passage was little else.

Ducher's several appearances during the month of February, 1793, before the Committee of General Defense have already been noted. He was not too busily engaged, however, to seize the occasion to publish another article pointing out the possibilities of a navigation act as a means of retaliation.²⁹ “A decree useful to France, injurious to her enemies, which should overthrow all thrones based upon the product of customs and the barriers within which the despots have confined their slaves and prepare the happy time of liberty and of reciprocity of commerce between all people—that is a decree of French navigation. I have been urging it for a long time; the present moment is critical.”

²⁸ *Ibid.*, Jan. 29, 1793.

²⁹ *Ibid.*, Feb. 12, 1793.

Reviewing again the progress of the British marine and its present preponderance as a result of the navigation act, he declared "the commerce of England is founded on laws the adoption of which by other powers would destroy the whole structure." It was France which suffered most from the laws, the treaties and the tariffs of England; France ought to be the first to break the yoke of English commerce. The other nations with maritime ambitions would be quick to follow. At the peace, when it came, the French act of navigation would be maintained or revoked if England revoked hers; in either case France would have given more equality and liberty to the commerce of the nations. Although he had argued for the embargo, privateering, bounties, the division of prizes in proportion to pay and had demanded that the embargo should include the seizure in the ports or on the sea of all vessels of foreign ownership under the French flag, he declared there was no embargo, no victory on land or sea of which the benefits could be compared to the degree of commercial prosperity to which the navigation act would lead.

"The interest of the English debt is derived from the customs. The crown of George rests on the customs. It is the navigation act which gives him the sovereignty of the seas. Attack then the commerce of England, and the English people will rise against the government; attack it

by your decrees and by your privateers, the English people will reform the decrees of George and will refuse him the taxes destined to the support of fleets which serve national pride rather than any real utility."

The comment of the editor of the *Moniteur* on this article is illuminating in regard to Ducher's standing at this time. "Citizen Ducher does not remit his efforts on behalf of commerce. It is impossible that in the end, he will fail to awaken the interest of legislators in a subject of so much importance. His long sojourn in the United States and his relations in England have given him the most thorough acquaintance with the English laws on commerce and customs. His principles are very simple. The English have enriched themselves and enslaved the rest of Europe by their commercial laws; adopt these laws, and you will free all Europe, you will ruin England and you will enrich yourselves."³⁰

The overwhelming preponderance of the English in the trade with Russia served Ducher as the text of another presentation of the desirability of a navigation act.³¹ In 1792, nine hundred eighty-six vessels entered Cronstadt; six hundred nine were English; six French! Nine hundred seventy-one vessels cleared; five were French. Four Russian vessels entered France and five left

³⁰ *Ibid.*, Feb. 12, 1793.

³¹ "Anglais en Russie." *Ibid.*, May 12, 1793.

France for Russia during that period. The rest of the Russian trade was carried on by twenty-two foreign vessels going from France to Russia and thirty-five coming from Russia. That is to say, he argued, the English, the Dutch and the Hamburgers had profited to that extent by the absence of a French navigation act.

Similarly, the Americans, "*nos bons amis*," had been almost excluded from French ports by the looseness of French commercial laws and by the criminally foolish policy of buying at London in the name of the government grains which could have been better bought in America if a "certain dealer in foreign grain had not been found among French business men."³²

He went on to show what the English navigation act brought in the way of profit to the English carrying trade. In the years 1787, 1788, 1789, 1790, the export trade of England in foreign goods amounted to 20,000,322 pounds sterling, or more than a fourth of the total exportations. To double freight on these articles to and from England must be added the profits of purchase and resale. Four-fifths of these articles had been imported directly by English vessels and almost all exported indirectly by them. To these

³² The reference is to Bidermann, Clavière's henchman. The embargo of February had not been carried out completely. Twenty-three English, fifty-six Dutch, one Prussian vessel, besides the Hanseatic vessels had been released. What were the powerful and just reasons, asked Ducher, that determined that action?

profits must be added the profits of the coastwise trade, limited entirely to Englishmen; "then you will have the demonstration that the navigation and commerce of England depends on the navigation act and the combinations of the tariff."

The effect of the French navigation act, besides reducing England and raising France to their proper importance, respectively, in the commerce of the world, will be to strengthen the position of French commerce in future wars, he declared. Now France is almost cut off from her trade with Russia because she is at war with the principal intermediaries in that trade, England and Holland. Then, the reciprocal relations of France with each of the other nations having been developed by the encouragement of "direct" navigation, French commerce will not suffer except in its direct relations with each enemy. "French commerce will not regret then the intermediaries whose exclusion has augmented it. . . . The French republic, without taxes on industry or on consumption, without duties between itself and the colonies, having in its outer customs houses a moderate duty on foreign goods, will become the temple of the commerce and of the liberty of the world."

In still another article, Ducher discussed the navigation act as basis for diplomatic relations.³³ "We will have no more intermediaries between

³³ *Moniteur*, June 9, 1793.

us." Such, he declared, ought to be the first word of French diplomats. Each of them ought to urge earnestly a corresponding decree on the part of the sovereign to whom he is accredited. The advantages of such an act should be fully pointed out and each country assured of the support of France by all the means in her power, in maintaining the law which would assure forever intimacy of relations between the two nations.

In a paragraph of digression, Ducher took occasion to point out two features of the act, apparently in reply to objections made. First, the act made no change in regard to exportations. Second, if war prevents direct relations with the enemy, the intermediary can be admitted to the trade if there is no decree which expressly prohibits the entry of enemy's goods.

In spite of this earnest campaign on the part of Ducher, and the definite adoption of the navigation act as a part of the program of the Committee of Public Safety, the influence of the free-trade Girondists was still too strong. It was not until the revolution of May 31 to June 2, 1793, had driven them from power and destroyed their influence on the current of events, that the adoption of Ducher's program became possible. This did not immediately follow their expulsion.

In pursuance of the resolution of May 20, the Committee of Marine had undertaken the preparation of a navigation act. The task was in-

trusted to Pierre Marec, deputy from Finisterre, who reported to the Committee on June 29. The Committee of Marine made "un examen approfondi" of the several articles of the decree, and all the points proposed by Marec were definitely adopted, "sauf l'avis des comités de commerce et de Salut Public auquel le Rapporteur a été chargé de soumettre incessamment son travail."³⁴ The same day Marec submitted his report to the Committee of Public Safety at a meeting attended by almost all the members of the Executive Council.³⁵ After some discussion he was instructed to report the observations made to the two committees which had sent him.³⁶ On July 2, Marec read his report and the measure as formulated.³⁷

Marec's report, while not, apparently, dependent on the previous discussions of the navigation act, did not develop any new arguments of importance. We are less concerned here with his somewhat weak exposition than with his generous acknowledgment of the influence of Ducher. For his statistics in regard to the condition of English navigation in 1651 and the growth of English commerce which followed the navigation act, he referred to

"the research of one of our compatriots who is today

³⁴ Minutes of the Committee of Marine, June, 1793. *Arch. Nat.* D XVI, 2.

³⁵ *Arch. Nat.*, AF II, 9, No. 118.

³⁶ *Actes du Comité de Salut Public*, V, 120.

³⁷ Gerbaux et Schmidt, IV; 109, 115.

among the most deeply versed in the knowledge of our real commercial and political interests, the citizen Ducher,"

adding in a note,

"If the Convention passes the navigation act, the nation should recognize its obligation to Citizen Ducher, who for more than two years, with unwearying constancy, has been promoting the adoption of such a measure, not only by the publication of his writings, but also before the committees of the assemblies. It gives me pleasure thus to do justice in a public manner to the character of that excellent citizen."

With two exceptions, the proposal of Marec is essentially identical with that proposed by Ducher in his *Moniteur* article of June 29, 1792. Considerations of diplomacy, apparently, dictated a preamble corresponding in purpose to Delattre's article IV, which declared that existing treaties would be observed. The preamble of Marec's proposal asserted the right of the French nation to insure by all means the prosperity of its agriculture, its commerce and its industry, and in particular to pass a navigation act, a right which it recognized as the right of any other nation. Thus early did the idea of extending the principles of the navigation act to all the countries of Europe receive expression.³⁸ In the second place, certain specifications required before a vessel should be recognized as the national of another power were new.

³⁸ This phase of the history of the act is discussed at some length in the final chapter of this work.

Marec presented his report to the Convention July 3, 1793. It was ordered printed and the discussion postponed for one week.³⁹ It was not, however, until July 19 that Marec was able to bring the Convention to a discussion of his proposal.⁴⁰ At this point its progress was again interrupted. Two speeches, according to Barère,⁴¹ "based on objections the frivolity of which the authors themselves knew, caused an adjournment." The objectors expressed the fear that the navigation act would injure the relations of France with neutral countries, "as if the time of war and of neutrality were not, inevitably and in law, an exception, as if Sweden, a neutral power, did not have, in her preferential duties, a sort of navigation act, as if the navigation act were not a means of reprisal and as if the neutral maritime powers were not all interested in the abasement of England's maritime supremacy."⁴²

One of these speeches, that of Delaunay d'Angers, was printed by order of the Convention.⁴³ Delaunay did not fall short of Marec in his appreciation of the results of the English Navigation Act, nor in the importance which he attributed to the development of the French mer-

³⁹ *Arch. Parl.* LXIX, 143-147.

⁴⁰ *Ibid.*, p. 194.

⁴¹ *Ibid.*, LXXIV, 598.

⁴² *Ibid.*

⁴³ *Arch. Parl.*, LXIX; 194-198, *Moniteur*, July 31, 1793. The reprint in the *Moniteur* is defective.

chant marine. In fact, the considerations which he advanced in favor of a policy of encouragement were much abler than those of Marec.

But was it possible, he asked, to make such a law in 1793? He held that it was not; it was one of numerous examples that in statesmanship, an occasion lost is lost forever. Under modern conditions, the nations of Europe were all too well informed of their own interests for any one of them to attempt a measure so vigorous. To do so would result in coöperation of the rest to retaliate upon the commerce of the power taking that step. He demanded an act which could be applied with more discrimination, which would take more account of the existing circumstances of French commerce.

His objections to the proposal of Marec he summarized under eight headings: (1) that the act could not be executed in its full extent and rigor; (2) that the transportation from one port to another of the Republic of all goods, and not only those of French origin, ought to be limited to French vessels; (3) that it was needful to employ all possible means to extend French commerce with the North, especially to secure naval stores; (4) that until that commerce was fully developed, the Dutch ought to be allowed to bring naval stores into French ports; (5) that every vessel of these nations coming in ballast to take on French goods ought to be excluded; (6) that the renewal

of the treaty of commerce with England was the time at which to take measures which would prevent injurious competition with French vessels; (7) that the navigation act should be rigorously applied to the colonies, at the same time powerfully favoring the maritime enterprise of the colonies themselves, so that they could supply themselves from the coast of America with the provisions which France was unable to send them, and at the same time could develop a trade with the foreign colonies in the West Indies; (8) that more attention ought to be paid to the encouragement of fisheries, that essential branch of the marine, especially by relieving it of the restrictions which handicap it.

Such were the principles upon which, it seemed to Delaunay, the navigation act ought to be based; but it was impolitic and dangerous to consider such an act at that moment, since France was so dependent on neutral flags for her supplies, and the success of her arrangements depended on the vigorous maintenance of the armed neutrality. He demanded the adjournment of the proposal and the reference of his proposal to the three committees. The Convention complied with his request and reopened the whole subject by ordering a reconsideration of the report and proposal of the committees. Delaunay's speech was ordered printed and distributed to the members of the Convention.

The records of the three committees do not show any response to this re-reference. The burden of replying to Delaunay seems to have fallen entirely upon Ducher's willing shoulders. On August 17, he addressed to the Convention the following letter:

"Citizen President:—

"Permit me to offer the National Convention my response to the objections made by Citizen Delaunay d'Angers against the navigation act. To that work are added discussions of the principles upon which that law is founded and of the circumstances which call it forth; the whole is the result of a long study of the commercial laws of England and of the United States of America.

"This matter is of the highest importance and deserves to be illuminated by the fullest discussion."⁴⁴

Upon motion, the Convention decreed that the response of Ducher to Delaunay should be printed and distributed to all the members of the Convention.⁴⁵ It appeared presently under the title *Acte de Navigation avec ses Rapports au commerce, aux finances, à la nouvelle diplomatie des Français. Par G. J. A. Ducher.*⁴⁶

⁴⁴ *Arch. Parl.*, LXXII, 367. Original in *Arch. Nat.*, C267, dossier 635.

⁴⁵ *Ibid.*

⁴⁶ The whole work is reprinted in full in *Arch. Parl.*, LXXII, 393 ff.

An examination of this publication shows that Ducher took the opportunity to republish all the articles which he had already published in the *Moniteur*, most of them having only a remote connection, if any, with the Navigation Act, as, for example, his articles on finance and administrative reorganization. In addition, Ducher included several other small pieces. One article, entitled "Tarifs," is a selection from his *Analyse de lois commerciales des États Unis*, which contained Ducher's first proposal of a navigation act.⁴⁷ Another is a letter addressed to Roland demanding the statistics in regard to French trade, especially that with England and the United States.⁴⁸ Another article is a selection from Mrs. Macaulay's *History of England* describing the relation between Holland and England at the time of the first passage of the Navigation Act. He had previously published the article in the *Moniteur*⁴⁹ under the title "Exemple à suivre" with due acknowledgment of the source. In the *Acte de Navigation*, however, the source was not mentioned. Most of the articles were dated as they had been published in the *Moniteur*; two of them, however, which had been published as separate pamphlets, were given earlier dates, probably the dates of first publication; the one, "Nouvelle alli-

⁴⁷ *Arch. Parl.*, LXXII, 402.

⁴⁸ *Ibid.*, p. 405.

⁴⁹ Aug. 3, 1793.

ance à proposer entre des deux républiques américain et français," instead of October 30, 1792, September 20, 1792; the other, "Suppression des barrières entre la France et les colonies," instead of November 4, 1792, October 1, 1792.

Only the final article was explicitly a response to Delaunay's objections.⁵⁰ Taking up in order nineteen of Delaunay's principal statements, he replied briefly to each of them. The navigation act, he declared, had never been demanded in France in circumstances so opportune. In time of peace, the fear of war with England had always operated to prevent its adoption; in time of war, the desire to cultivate the neutrality or alliance of Holland had operated in the same way. Now France was at war with both England and Holland and the way was open to secure the numerous advantages such an act would bring.

To Delaunay's assertion that the time to provide protection for French navigation from injurious English competition had passed, he replied that the best plan would be not to permit the English to do in France what they prohibited to Frenchmen in England. "It is the interest of France not to have any special treaty of commerce with England or Holland. Every special treaty of commerce is a bargain of which France is the dupe. The most ably worked out arrangements will secure for her the advantage which she

⁵⁰ Article, "Objections et Réponses," *Arch. Parl.*, LXXII; 421.

accords. The population, the condition of manufactures and of the merchant marine, and the freedom of consumption in France, diminish, to her prejudice, the effects of stipulations of equality and reciprocity." Retaliation by the neutral powers by the adoption of similar laws would not injure France but would exactly serve her purpose. A dissimilar law specially directed against France, which would exclude the French flag from "indirect importation," while permitting it to foreign flags for the products of France would still be favorable. The French flag would continue to be used, and foreign vessels would come more often in ballast. He did not agree at all with Delaunay's principle that foreign vessels coming in ballast should be shut out; such vessels served French trade, and there was no freight to pay, while they left foreign capital for their cargoes.

The development of the commerce with the powers of the Baltic could best be encouraged by a navigation act; the bounties and premiums suggested by Delaunay had been tried without results. Treaties, which Delaunay had urged as the first means to be used, were not to be compared in effectiveness with regulations that depended on France herself. The maritime weakness of the northern powers was not a reason for allowing the Dutch to enjoy a trade that the French should have for themselves.

The plan of Delaunay to encourage a colonial marine, to Ducher's mind, was impossible. The

colonist was engaged in production to the full limit of his capital and of his labor supply. To make him a mariner, it was necessary first to double his capital and pay his debt to the *metropole*. The scarcity of sailors had already made it necessary to open seven free ports in the colonies. They could not be closed to foreigners, as Delaunay urged, as long as the treaty of commerce with the United States was in force.

The prohibition of indirect importation could not injure the trade in supplies. Whether they were contraband or not, war time was the favorable moment for a decree reserving their importation into France to French vessels or those of the nation of origin. That provision for the time of peace could not handicap the importation of supplies in time of war; it was not the English and Dutch who were actually bringing supplies to France.

Ducher terminated his reply to Delaunay with an impassioned appeal for the adoption of commerce as the motive of diplomatic relations. "The revolution had destroyed the old system of dynastic guarantees, of family alliances, of treaties of partition, of the balance of power. The treaties of that system formed the political and feudal bond of that dozen of individuals who have empires for fiefs and nations for titles. This chain is broken, the French axe has cut its chief link; the crowns of Madrid, Turin, Vienna, Berlin, The Hague—even that of England is no

longer guaranteed by Louis Capet, for life upon the head of an imbecile, and to perpetuity in a family of foreigners. The Stadtholder and the King of Prussia being seriously occupied on the continent, the islanders of Great Britain and of Ireland could—ah! if during the past year we had had for minister——!" Prudence apparently forbade Ducher to fill in the blank with the name of his ideal minister.⁵¹

"Let us bring to an end," he continues, "the diplomacy of the Red Book, of presents, of pensions, of subsidies. France has no need of guar-

⁵¹ This I take to be a reference to Talleyrand, whose mission in England, it will be remembered, was supposed to be concerned with the incitement of popular movements in order to prevent hostile action on the part of the English government against France. I am inclined, on the ground of this allusion, coupled with the similarity of the style of the article in question to the style of Ducher's avowed articles, to attribute to Ducher the very cogent defense of Talleyrand, published in the *Moniteur*, December 15, 1792, after the arrest of Talleyrand had been decreed by the Convention, over the signature "D." Pallain, in the introduction to his *Ministère de Talleyrand sous le Directoire*, page xv, conjectures Danton or Desrenaudes. Neither of these was accustomed, as was Ducher, to the use of the *Moniteur* as an organ of opinion.

When Talleyrand became minister of foreign affairs under the Directory, Ducher in conversation and by writing solicited the aid and support of Talleyrand in obtaining payment of one of the numerous claims which Ducher advanced during his career for suitable rewards for his services. The attitude of Talleyrand and the outcome of Ducher's claim is not shown by the available evidence, but the letters of Ducher that remain in the *Archives des Affaires Étrangères* indicate that Ducher at least assumed that he might expect more consideration from Talleyrand than from other ministers. See Appendix I below.

antees. It cannot hold its title from kings, nor can it support their thrones against the will of their peoples. The diplomacy of the French ought to be limited to commercial relations. Commerce then ought to be our political lever; that lever requires a point of support, the navigation act by means of which we will displace the trade carried on in France by foreigners who are our enemies, to share it with the people whose governments are not armed against us."

Ducher's time, however, had not yet come. It was only with the consolidation of the rapidly growing power of the Committee of Public Safety that the achievement of his program of commercial legislation became possible. This was, as Stephens⁵² points out, a gradual process. August 1, 1793, Danton's motion to abolish the Executive Council, and to make the ministers simple agents of the Committee was scarcely considered by the Convention. On October 10, 1793, the suspension of the Constitution marked an accepted fact, that the Committee was supreme in France. The passage of the navigation act was a manifestation of the development of the power of the Committee between these two dates.⁵³

⁵² *The French Revolution*, II, 282.

⁵³ The navigation act, however, was not the first of Ducher's proposals to be enacted into legislation under these new conditions. Ducher had long advocated the integration of the colonies with French by the abolition of the colonial tariffs. The Girondin policy of indifference had prevailed, however, and the colonies were

Its formal presentation to the Convention seems, however, to have been postponed for some days in order to give it, as the "charter of commercial liberty," the additional *éclat* to be derived from the anniversary of the charter of political liberty, the declaration of the Republic. In the *Archives Nationales*⁵⁴ is to be found a sheet of paper, once folded, on which is inscribed in a clerkly hand an *Acte de Navigation* dated "10 septembre, 1793 l'an 2 de la République française." Its terms are exactly identical with the first four articles of the act as it was later passed. Appended is the unkempt signature: Ducher. As the document contains absolutely no other writing it is impossible to determine what its purpose was. Probably it was submitted to Barère to serve as a minute for his use. In this form it was printed for distribution to the Convention.⁵⁵

On September 21, 1793, it was presented to the Convention by Barère, reporting in the name of the Committee of Public Safety alone.⁵⁶ Barère's

thrown open to the United States by the act of February 19, 1793. On September 11, Barère proposed the reversal of this policy by the adoption of Ducher's proposal. It was accepted, but only after a sharp debate. *Arch. Parl.*, LXXIII, 689. Ducher's relation to the colonial question will be discussed more fully in connection with his part in the Girondin-Montagnard struggle, Part IV, c. 3.

⁵⁴ AF II, 63, dossier no. 408, pièce no. 39.

⁵⁵ *Projet d'acte de navigation. Imprimé par ordre de la Convention Nationale.*

⁵⁶ It will be remembered that after Delaunay's speech of July 19, the whole subject had been referred for reconsideration to the three Committees of Public Safety, of Marine and of Commerce, conjointly. The latter two had apparently been ignored.

report contained very little information about commerce or navigation, but was filled with energetic denunciation of England. In words that seem to have stirred the Convention deeply, he demanded passage of the navigation act.⁵⁷ "It was on September 21, 1792," he began, "that the Convention proclaimed the liberty of France, or rather the liberty of all Europe. It is on this, the anniversary of that event, that the Convention ought to proclaim the liberty of commerce, or rather the freedom of the seas."

After surveying in general terms the condition of the national marine, showing how the colonial carrying trade, the coastwise trade, the fishing trade, were divided among foreigners, Barère rhetorically appealed to neutrals: "Our enemies of Great Britain and of the marshes of Holland will no longer be the agents and masters of our commerce with you." He then continued his indictment of England and showed how the French navigation act would injure that ancient enemy. Turning to the positive advantages for France, he showed how it would make her independent of England in her relations with foreign countries, how it would develop in France the shipbuilding industry, a body of sailors, and the various lines of commerce. But above all the appeal of Barère was for the navigation act as an act of reprisal, a blow at England. "Let Carthage be destroyed! It is thus that Cato terminated each of his utter-

⁵⁷ *Arch. Parl.*, LXXIV, 603, note.

ances in the Senate of Rome. Let England be ruined, annihilated! That should be the last article of each revolutionary decree of the National Convention of France.”

The report of Barère was received with applause and adopted. It was ordered printed, sent to the departments, and translated into all languages, including English.⁵⁸ Upon the request of Boissier, the report of Marec was included in the publication.

Barère made an even fuller acknowledgment of the influence of Ducher than had Marec. He declared that the navigation act and the three⁵⁹ others on the customs system passed the same day were due to citizen Ducher, “who has rendered great services to the Committee.”⁶⁰

The act itself was identical in the three essential articles with the proposal reported by Marec. His apologetic preamble, however, had been replaced by another which was taken with slight modification from the proposal of Delattre⁶¹ and made Article I: “Les traites de navigation et commerce existant entre la France et les puissances avec lesquelles elle est en paix, seront exécutées selon

⁵⁸ English text, *Bib. Nat.* Le 38, No. 462; Italian text Le 38, No. 463.

⁵⁹ As a matter of fact, only two others that can be attributed to Ducher, were passed on September 21. Barère probably was thinking of articles 5 and 6 of the Navigation Act as a separate measure.

⁶⁰ *Moniteur*, Oct. 3, 1793.

⁶¹ *Arch. Parl.*, XXXI, 203.

leur forme et teneur, sans qu'il y soit apporté aucun changement par le présent décret." This was obviously a concession to the objection that a navigation act would irritate the neutral powers.

Articles 5 and 6 were added by Barère.⁶² The first provided that the tariff should be combined with the navigation act and the decree which abolished the customs barriers between France and the colonies. The other and last was in recognition of the importance of the act. It ordered that it should be proclaimed without delay in all the ports and commercial towns, and communicated by the Minister of Foreign Affairs to the neutral powers.

The prohibitions of the navigation act necessitated a definition of nationality. Under the old régime, the absence of laws discriminating against foreign vessels had made the definition of nationality a matter of indifference, and the old laws had fallen into desuetude. The Constituent Assembly had made a slight provision for the registration of property in vessels,⁶³ but in 1793, any vessel was regarded as French that was owned in whole or in part by Frenchmen. The preferential treatment, assured to French vessels by the act of March 1-April 24, 1791,⁶⁴ had not led to any definitive legislation.

⁶² See the minute of the decree in *Arch. Nat.*, C269, dossier No. 645. *Arch. Parl.*, LXXIV, 596, note 1, column 2.

⁶³ Title II, Act of August 13, 1791.

⁶⁴ *Arch. Parl.*, XXIII, 295. See above page 49.

Such an act of definition had been a part of Ducher's program. It was one of the measures the importance of which he had urged upon the Committees of General Defense and of Commerce in the preceding February. Barère had referred to the necessity of such an act in his report of May 29, on the state of France.⁶⁵ On July 3, Ducher published his proposed decree, with arguments for it, in the *Moniteur*, under the title "Anglais sous pavillon français." The purpose of such an act he declared was to prevent "françisation frauduleuse," that is to say, the registration as French of vessels that were really the property of foreign capitalists. The act which he proposed required every owner of a vessel to present sworn statements that neither his vessel nor any goods that might be on board destined for or coming from the colonies or trading posts of France was either in whole or in part the property of foreigners. Efficiency in execution was insured by offering informers half the sale-value of the vessels which were confiscated and sold as a penalty for violations of the decree or false declarations. This proposal, verbally unchanged, Barère presented to the Convention immediately after the passage of the Navigation Act, and the measure was adopted without discussion.

Still a third part of Ducher's program was embodied in legislation this same day; an act trans-

⁶⁵ See above page 85.

ferring to the customs administration all functions relating to foreign commerce.⁶⁶ This measure, however, will be treated in connection with his influence on the reorganization of the customs service and the Department of Foreign Affairs.⁶⁷

More immediately connected with the legislation of September 21, is an act of somewhat later date which provided the machinery of execution for the Navigation Act and the act defining nationality. These acts were both of a general, quasi-constitutional character, and to make them effective, another act was necessary. Such an act Ducher provided within a short time. On October 8, Barère presented it to the Convention with due acknowledgment of Ducher's authorship in these words: "You have done nothing in passing the Navigation Act unless you provide the means of execution. Ducher has coöperated with the committee and has drawn up a measure in forty articles." Curiously enough, as introduced by Barère, the proposal was divided not into forty but thirty-one articles. No immediate action was taken in regard to the proposal. When it was taken up again, ten days later (27 Vendémiaire, An II,-October 18, 1793), it was presented by Bourdon de l'Oise on behalf of the Customs Commission, a new body with which Ducher was to be

⁶⁶ *Arch. Parl.*, LXXIV, 604.

⁶⁷ See below, Part III, Chap. 1.

closely connected during its existence.⁶⁸ The Act, now in forty articles and otherwise slightly revised, was passed without recorded debate,⁶⁹ under the title, "Act relative to the Navigation Act."

As Barère had indicated, this act merely applied in detail the principles laid down in the two fundamental acts of September 21. Only the first three articles affected the navigation act itself, establishing the exceptions to the complete operation of the act which the particular circumstances of France, at that time, demanded. Article one exempted from the prohibition of indirect importation raw wool from Spain or England, raw silk, specie, cochineal, indigo and jewelry of gold or of silver, of which the material had cost at least three times the labor and accessories. Article two permitted in time of war, French or neutral vessels to import indirectly from a neutral or enemy port the products and goods of a hostile power, if there were no general or partial prohibition of enemies' goods. Article three exempted from the navigation act in time of peace or of war French and foreign vessels in the service of the Republic. These exceptions are significant of the reality of the intentions of the Convention, and need to be taken into account in estimating the place and value of the navigation act in the commercial policy of that body; without them, the act,

⁶⁸ The Commission and Ducher's relations with it will be the subject of Part III.

⁶⁹ *Arch. Parl.*, LXXVI, 701.

as its opponents had urged, was in time of war, in view of the existing maritime supremacy of England, a positive injury to France and impossible to apply. But given the exceptions, the act was distinctly applicable to the situation. Some indications as to its application and its results will be considered in connection with an attempt to estimate Ducher's significance.⁷⁰

The second part of the act, from Article 4 to Article 28, provided the machinery for the application of the act to prevent false registration. Articles 4, 5, and 6 provided for a system of annual clearances for vessels of less than thirty tons engaged in the fisheries and the *petit cabotage*, or coastwise trade between ports on one of the coasts. Article 7 provided that in case of shipwreck on French coasts a vessel might become French, if it was purchased by Frenchmen and if the cost of repair amounted to four times the sale price of the vessel; while Article 8 forbade the repair of French vessels in foreign ports beyond a limit of 6 livres a ton, except in case of necessity established by the testimony of French consuls or merchants in the country in which the shipwreck occurred. Articles 9 to 28 provided the forms and conditions of registration for larger vessels, as well as the procedure in case of change of form, name, command or ownership, and the penalties for violation of or non-compliance with these pro-

⁷⁰ See final chapter of this work.

visions. Article 27 established the reward for informers of half of the product of fines and confiscations as Ducher had advocated in his article in the *Moniteur* of July 3, 1793.

The remainder of the Act of 27 Vendémiaire was devoted to the abolition of the complex system of navigation and port duties which had continued to burden maritime trade from the days of the *ancien régime*.⁷¹ By the acts of August 18, 1791, and May 27, 1792, these duties, hitherto the revenue of the Admiral of France, had become part of the national revenue, and were provisionally maintained. A special set of officials had been appointed for the collection of this revenue, but they had not proved efficient. On December 29, 1792, Cambon, reporting for the Committee on Finance, had secured the passage of a law which abolished this separate machinery of collection, transferred the duty of collecting the navigation duties to the Customs Administration and instructed the Naval Committee and the Commerce Committee to submit at the earliest possible date a general uniform tariff of navigation duties.⁷²

⁷¹ For their multiplex character see *Diplomatic Correspondence of the U. S.*, 1783-1789, I, pp. 502-504, or *State Records of N. C.*, XVII, 602 ff.

⁷² *Arch. Parl.*, LVI, 67. Reprint of report of Cambon. This report, while it was delivered by Cambon, was actually the work of Pierre-Mathurin Gillet. Cf. *Rapport et projet de décret présentés au nom du comité des finances par Pierre-Mathurin Gillet, député à la Convention Nationale pour le département de Morbi-*

Toward the end of January, 1793, Castilhon, of the Commerce Committee, on the basis of a letter from Clavière, prepared a report on the *droit du fret*, proposing a modification of that duty with a view to providing preferences for French vessels and for reciprocal arrangements in the case of foreign vessels engaged in direct commerce. The Committee approved his ideas, but in view of the impending breach with England, decided to postpone making any formal proposals on the basis of his report.⁷³

No further steps were taken⁷⁴ until Ducher's "act in 40 articles" was presented by Barère. Ducher handled the problem in vigorous fashion. Article 29 of his act abolished the "droits du fret, ancrage, feux, phares, tows, balises, signaux, lestage, delestage, pontage, traversage," and all others of whatever denomination. Articles 30 to 33 established four classes of vessels: (1) French vessels above 30 tons engaged in the coastwise trade; vessels trading from one port on the Atlantic, or from one on the Mediterranean, to another were to pay three sous a ton—while those trading from the Mediterranean to the ocean, or

han, sur la réunion des droits de navigation à la régie des douanes nationales. Imprimé par ordre de la Convention Nationale. H. Soc. of Pa., Jb. 53, v. 92.

⁷³ Gerbaux et Schmidt, III, 714 ff.

⁷⁴ But see decree of March 31, 1793, abolishing the *droit du fret* as applied to Genoese and other vessels carrying grain to France, and that of April 8, 1793, which suppresses the duty for foreign vessels engaged in the *grand cabotage*.

vice versa were to pay four sous a ton; (2) French vessels coming from the French colonies—these were to pay 6 sous a ton; (3) French vessels coming from the fishing grounds, privateering expeditions or from foreign ports, which were to be exempt from tonnage duty; (4) foreign vessels, which were to pay 50 sous a ton.

Article 34 provided for the method of calculating tonnage. Articles 35, 36 and 37 established the fees for entry and clearance of vessels. Article 38 specified the information which should be set down in a register of entry and clearance, and required of the captain of any vessel entering port a general manifest aside from that to be made for the payment of duties. Article 40 provided for later amendment of the method of gauging to conform to the new system of weights and measures.

Almost all of this Act relative to the Navigation Act, except the first four articles, was derived, in substance or in phraseology, from the act of the Congress of the United States of September 1, 1789, which Ducher in 1790 had summarized in his *Analyse des lois commerciales des États-Unis*. Whole sections of the American act were translated verbatim, as, for example, the forms of the certificate and oath required by articles 9 and 13 of Ducher's act, which are translated from sections 2 and 6 of the Act of September 1. In some cases the translations are used with additions or modifications, as in the case of Article 12, defining the conditions under which a Frenchman residing

abroad might own the whole or part of a French vessel, which is simply section 5 of the American act, with an additional provision imposing on such persons the burden of proving that they had not taken the oath of fidelity to any foreign power. In one case at least⁷⁵ a single section of the American act had been restated in clearer and simpler form in four different articles. The tonnage duties of articles 30 to 33 are strikingly similar, at least in spirit, to the discriminating tonnage duties of the American act of July 20, 1789. It was probably not an accident that Ducher adopted the same duty, 50 cents, for the one classification of vessels which in his act coincides with a classification in the American act. Article 34, which established the method of determining tonnage, was an inaccurate reproduction of the American formula (Section III of the Act of September 1, 1789), and had to be amended to conform to that model by an act of January 1, 1794.⁷⁶

In less degree, the influence of the American legislation which Ducher had studied so zealously in his consular days, is observable throughout the rest of the legislation of which he was the author. Even the phraseology of the two great fundamental acts of September 21 is noticeably affected by this same act of the Congress of the United States,

⁷⁵ Section 7 of the American Act, Article 3 of the Act of September 21, in regard to *congés*, articles 10 and 25 of the Act of 27 Vendémiaire.

⁷⁶ *Procès Verbal de la Convention*, Jan. 1, 1794, p. 212.

while he explicitly avowed it as his purpose to emulate English and American organization in connection with the series of acts, of which he was the author, directed toward an economical reorganization of the customs service.⁷⁷

Ducher had achieved his first great aim. By the Navigation Act, the act defining nationality and the act relative to the Navigation Act, France had begun the attack upon the monopolistic position of England in the carrying trade which was ultimately to result in the surrender of the Navigation Acts in 1849. The evaluation from the economic point of view of this policy, is beyond the province of the historian, as it seems to be beyond the capacities of the economist, but some statement of its continuity and of its place in French policy of the nineteenth century will be attempted in the final survey of Ducher's work in the last chapter of this essay. Next to be considered is another phase of Ducher's activity, which, while perhaps less important in its results, is no less significant in regard to the work and purposes of the National Convention.

⁷⁷ See below, Part III.

PART III

DUCHER AND THE CUSTOMS COMMISSION

THE passage of the *Acte de Navigation* was a point of departure for a considerable body of legislation on commercial questions with which Ducher was intimately concerned and which embodied practically the whole of his program. The story of this phase of his career is closely linked up with the history of the *Commission des Douanes*, to which allusion has already been made.¹ This commission was created by an act in four articles passed October 8, 1793, upon motion of Barère, reporting for the Committee of Public Safety. The first, second and fourth articles related to other subjects. The third created a Commission to be composed of five members of the Convention, who were named: Forestier, Cambon, Bourdon de l'Oise, Chabot and Topsent. This commission was charged with the duty of presenting to the Convention immediately the changes to be made in the organization, the laws, the tariff and the customs administration.

It is not clear that this article was proposed by Barère in his report. In the speech with which he accompanied his proposal as reported in the

¹ Above page 112.

*Moniteur*² and the *Journal des Débats et des Décrets*³ he referred only to articles 1 and 2. All the accounts agree, however, in presenting the whole act of four articles, as passed, as his proposal. On the other hand, Cambon in the debate objected to the organization of departments without due regard to the Constitution and demanded that "a committee be especially charged with the function of presenting the bases of these organizations (*sic*) in accordance with the principles of the Constitution." Allowing for the inaccuracy of the reporter, these terms would apply quite well to the *Commission des Douanes*.

Robespierre, who knew nothing about organization, and who was anxious to prepare the mind of the Convention for the suspension of the Constitution on October 10, replied that even a partial enforcement of the Constitution "would paralyze the revolutionary measures, and deliver France into the hands of her enemies. . . . Citizens," he cried, "await a period of calm to put into full force a Constitution which will evoke the admiration of posterity!"⁴ Cambon replied that his only purpose was to secure some harmony in administration. His point of view met with approval; according to the *Moniteur* he was applauded.⁵

² October 10, 1793.

³ October, 1793, p. 105.

⁴ *Moniteur* and *Journal des Débats* as cited.

⁵ *Loc. cit.*

The *Journal des Débats*, however, says: "Ces débats n'ont point de suite."

The creation of this commission relieved Barère of the responsibility for Ducher's program on the floor of the Convention. While it is not apparent that there was any rupture between the two, the partnership which had subsisted between them from the beginning of the Convention was apparently terminated by the withdrawal of Barère. His place was taken by Bourdon de l'Oise, who throughout the existence of the Customs Commission was its reporter on the floor of the Convention, and the author, with Ducher, of its proposals.

A striking illustration of the degree to which the Commission served as the instrument of Ducher's plans and purposes is illustrated by a proposal presented to the Convention on December 12, 1793. Nothing could be further removed from the specified functions of the Customs Commission than legislation in regard to the food supply. Nevertheless, on this date, Bourdon, the reporter of the Commission, presented a measure authorizing the Ministerial Commission of Subsistences to exercise the right of préemption to buy all grains brought into French ports by foreign vessels at a specified premium above the markets of London, Amsterdam or Cadiz, and forbidding dealers to make any such purchases privately under penalty of ten years' imprisonment.⁶

⁶ *Arch. Parl.*, LXXXI, 361; *Procès Verbal de la Convention*, Dec. 12, 1793, p. 145.

This measure, which, by the way, was not adopted by the Convention, was the partial embodiment of the principles set forth in Ducher's article in the *Moniteur* of October 28, which, in its turn, was probably abstracted from a memoir which he had presented to the Commission. In this article he advocated the extension of the State's right of preëmption to the whole grain supply, domestic as well as foreign. The State, he asserted, had the right to take, of its own motion, any property, real or personal. When the State wished to buy, it needed to protect itself by asserting this right of preëmption, without which it would always be overcharged. The exercise of the right was all the more necessary in a war of liberty when the enemies of France were attempting to blockade her. The exorbitant prices asked by the "engrossers" really extended the effects of the enemy blockade to every magazine and granary in the country. "All Frenchmen are soldiers," he points out, "subject to the requisition of their persons; why cannot the storehouse of that citizen soldier be reached by the right of preëmption?"⁷ In these days, when tales of food lines, bread tickets and communal feeding are a part of the news of war, the principle for which Ducher

⁷ *Moniteur*, Oct. 1793. Further evidence of Ducher's connection with the decree is afforded by a reference to it in his *Acte de Navigation, Seconde Partie* in the article *Trois réponses à trois nouvelles objections contre l'acte de navigation*. See below page 282.

was arguing seems nothing more than commonplace. That it failed to appeal to the great Committee of Public Safety, which did not omit many opportunities to extend its range of action as the head of the State, is a striking commentary on the development of modern nationalistic tendencies since the Revolution.

Beginning with the act of October 18, 1793, supplementary to the acts of September 21, the Customs Commission presented to the Convention a considerable series of proposals of which Ducher was the author, and all of which received the approval of the Convention. It is this phase of Ducher's career that we have now to consider.

CHAPTER I

THE REORGANIZATION OF THE CUSTOMS SERVICE AND THE DEPARTMENT OF FOREIGN AFFAIRS

THE first great task of the Customs Commission was the reorganization of the Customs Service. The abolition of the interior barriers and of the farming system had involved the destruction of the old machinery of administration. The Assemblies and the Convention faced a problem not unlike that of the first Congress of the United States under the new Constitution—the construction, from the ground up, of a national customs service. The Constituent Assembly had accomplished something in that direction by the establishment of the Customs Administration to replace the farmers-general and by the act of August 6/22, 1791, which organized in great detail the application of the tariff laws. Both these acts, however, fell short of the reorganization necessary. Both were conceived on the basis of the old forms and arrangements and utterly inconsistent with the strongly centralized and uniform system which it was the destiny of the Revolution to produce. The eight members of the Administration¹ merely replaced the seven farmers-general; the act of August 22 perpetuated many of

¹ Reduced to three by the Act of Oct. 14, 1792, at the suggestion of Clavière.

the old special privileges of the *ancien régime*. It remained for the Convention—for Ducher and the Customs Commission—to sweep away the last vestiges of the divided responsibility and special privilege which had characterized the old customs service and to begin the work of building up a system that was thoroughly simple and thoroughly applicable to the new France.

Ducher, since the beginning of the Convention, had been urging the importance of administrative reorganization. The existing organization of the ministry, he had pointed out,² in 1792 was not much better than it had been before the Revolution. In an article comparing the French customs service with the American system,³ he showed that while the French customs duties cost 9/16 of the net product to collect, the American cost only 1/30 of the net product. "In two words—the Americans follow the English, and we, the *ferme générale*." In his article on the "Suppression des Barrières entre la France et ses Colonies,"⁴ he pledged himself to procure a reduction of 4,000,000 livres in the expenses of customs collection, to make up for the revenue lost by the suppression of the colonial tariffs.

Closely connected with Ducher's proposals for the reorganization of the customs service was his

² *Moniteur*, Oct. 20, 1792.

³ "Tableau comparatif des douanes de France et d'Amérique." *Moniteur*, Oct. 15, 1792.

⁴ *Ibid.*, Nov. 4, 1792.

advocacy of a diplomacy based on commercial aims. His great principle, "Le commerce doit être notre grande, je dirai volontiers, notre seule intérêt politique,"⁵ recalls in striking fashion the utterance of Vergennes in 1782: "Dans le nouvel état du monde, toute question des douanes n'était pas moins une question politique qu'une question de finances."⁶ Even more suggestive is its similarity to the principle laid down by Dumouriez, who told Morris "that his system of politics was very simple; that a power so great as France stood in no need of alliances, and that therefore he was against all treaties of alliance other than those of commerce."⁷

This principle was developed in several of Ducher's articles. In the one entitled "Consulats et Affaires Étrangères,"⁸ he set forth in general terms the program of reorganization which should embody it in administrative machinery. Under existing conditions, he pointed out, commerce and political relations had separate agents. While the diplomats were under the Department of Foreign Affairs, the consuls and agents of commerce were under the Department of Marine, apparently for no better reason than that they were concerned with commerce carried on by vessels, even though by vessels not of the naval force. The functions

⁵ *Moniteur*, Oct. 20, 1792.

⁶ *Memoirs d'un Ministre du Trésor public* (Mollien), I, 204.

⁷ Morris to Jefferson, June 10, 1792. *Diary and Letters*, I, 537.

⁸ *Moniteur*, Oct. 20, 1792.

of consuls and diplomatic agents were so close, he pointed out, that at several important posts they were carried on by one and the same person, as at Constantinople, Dantzic, the African ports, and elsewhere. Why should two such services, so similar that they could be combined in the same individual, remain divided between two separate departments? Meanwhile, treaties of commerce were negotiated by the Department of Foreign Affairs; the determination of the amount of the duties was in the hands of the Ministry of the Interior; the collection of those duties was in the hands of the Ministry of Public Contributions; the consulates and the customs duties in the colonies, in the hands of the Ministry of Marine. All these duties could well be brought together in the control of a director of navigation and commerce under the Ministry of Foreign Affairs, which ought to be in control of all relations outside the limits of France.

The first step in this ambitious scheme of reorganization Ducher had already brought about. One of the first fruits of his partnership with Barère⁹ was the transfer of the consular bureau from the Department of the Marine to that of Foreign Affairs. Barère had been charged by the Committee of General Defense with the preparation of a decree on the provisional organization of the Department of the Marine. On Feb-

⁹ See above page 62.

ruary 5, 1793, the Committee approved finally his proposal as reported. On the next day, February 6, Barère brought up the report again and secured the assent of the Committee to the addition of an article by which the Bureau of Consulates should be transferred to the Department of Foreign Affairs.¹⁰ The measure was then presented to the Convention, and accepted without debate.¹¹

The results of the transfer, however, apparently did not obviate certain objections to the bureau itself, for on October 8, 1793, upon the motion of Barère, the Convention abolished the bureau entirely and ordered its functions to be distributed among the other bureaus of the Department of Foreign Affairs.¹² This act seems to have been dictated, at least in part, by some animosity to the personnel of the bureau. "One still finds," said Barère, in presenting the proposal for abolition, "the same abuses, the same cartons, the same clerks." Besides, some opposition to the transfer had been expressed on the ground that a large part of the correspondence of consuls was with the Minister of the Interior, and it may be that the purpose of the abolition was to render the retransfer of the bureau more difficult.

Shortly after the transfer of the consular bu-

¹⁰ *Actes du Comité de Salut Public*, II, 64.

¹¹ Article 13, decree of February 14, 1793, *Arch. Parl.*, LVIII, 525. Masson says inaccurately, "article 14, du décret de 14 février, 1792." *Le Département des Affaires Étrangères*, p. 241.

¹² *Arch. Parl.*, LXXVI, 247-248.

reau, Ducher effected another change in the organization of the department, slighter in character, but characterized by the same intention of "commercializing" it. According to Masson¹³ it was at Ducher's suggestion that a "bureau de contentieux politique et consulaire," composed of three employees, was created in April, 1793. As a matter of fact, the bureau had had a previous existence as the "division de contentieux politique." Its correspondence during the ministry of Dumoriez had consisted wholly of negotiations relating to compensations and indemnities for feudal rights suppressed by the action of the National Assembly.¹⁴ After the reorganization in pursuance with Ducher's ideas, it was given the commercial aspect which he desired to impose on the department and charged with the handling of disagreements arising in regard to seizures made on the sea, the national customs service, and treaties of commerce and others with foreign powers.¹⁵ At the organization of the twelve executive commissions, it had become the "bureau de contentieux politique et commercial." Its principal concern had come to be the disputes in regard to boundaries with neutral or allied countries, public

, ¹³ *Le Département des Affaires Étrangères pendant la Révolution*, p. 241.

¹⁴ *Arch. Nat. D XVI, 2.* "Correspondence de la division de contentieux politique pendant la ministère de Dumouriez, 14 août, 1792-12 mars, 1793."

¹⁵ *Almanach National de France, L'an deuxième*, pp. 158-159.

law in general, and finally the validity of prizes. According to Buchot, it was a busy office and essential to the organization of the department.¹⁶

Ducher's article entitled "Attribution de la régie des douanes extérieures au ministre des affaires étrangères" sets forth more specifically almost the whole program of reorganization carried out by the Customs Commission. The article is apparently a memoir accompanying a proposal formally submitted, perhaps to the Committee of Public Safety. "Mon projet," he writes, "n'est pas de transformer les régisseurs et directeurs des douanes en diplomates." Unfortunately the decree which he proposed is not printed with the report as it appeared in the *Moniteur*¹⁷ and in his *Acte de Navigation*.¹⁸ The outlines of his proposal, however, are sufficiently clear to establish its connection with the legislation which followed the Navigation Act of September 21. Its main features were as follows: (1) the reduction of the customs service by the abolition of the administrators and the directors of customs, as well as the semi-military staff of captains, lieutenants and sub-lieutenants, and the 75 inspectors, and by the substitution of a simpler organization; (2) the transfer of functions relating to foreign com-

¹⁶ *Arch. Nat.*, AF II, 24, dossier no. 196, no. 24. Report by Buchot to the Committee of Public Safety on the division of functions relating to external relations.

¹⁷ May 7, 1793.

¹⁸ *Arch. Parl.*, LXXII, 414.

merce from the Ministers of the Interior and of the Navy, and their concentration in the hands of the central bureau of external customs; (3) the transfer of the reformed bureau of customs from the Department of Public Contributions to the Department of Foreign Affairs; (4) the publication of statistics of commerce and industry.

The program here laid down by Ducher was followed by the Convention, it may almost be said, to the very letter, but not in the order in which the proposals were discussed in the article. The second and third parts of the program were passed before the formation of the Customs Commission. On September 21, after the Navigation Act and the act to prevent false registration had been passed upon the motion of Barère, Jeanbon-Saint-André presented a proposal which followed almost word for word the proposal of Ducher. To reduce still further the expenses of customs administration, and to reunite bureaus which never should have been separated, "everything that pertains to foreign commerce," Ducher had written,¹⁹ ought to be taken away from the Ministry of the Interior, including the archives and the balance of commerce, overseas commerce, the reimbursement of duties for exportation of Indian merchandise to foreign countries. All these matters should be put under a central bureau of customs to which it is evident that they belong by the

¹⁹ *Moniteur*, May 7, 1793.

nature of things and where the agents are sufficiently numerous not to be overburdened by that proper concentration. Furthermore, great advantages besides economy will be found in taking away from the Ministry of Marine the delivery of clearances, the reports, manifests, gauging, cargoes and ownership of vessels, to give the whole to the customs, already in charge of the collection of the navigation duty, which, like the method of gauging, ought to be the same in all the ports."

That the basis of Jeanbon Saint-Andre's proposal was this program of Ducher's is shown by its text:

"Art. 1. The National Convention withdraws from the Ministry of the Interior the archives and balance of commerce, bounties and rewards, overseas commerce, the reimbursement of duties for the exploitation of Indian merchandise and all else relating to foreign commerce by land and by sea; orders that the papers and correspondence thereto relative shall be brought together and deposited in the Central Customs Bureau at Paris.

"Art 2. The deliverance of clearances, reports and declarations on manifests, gauging, ownership, arrival and departure of vessels are similarly withdrawn from the Ministry of Marine and the Fleet Bureau and assigned to the Exterior Customs.

"Art. 3. The Committee of Marine will join with the Committee of Public Instruction to present in three days a uniform method of gauging and a tariff of navigation duties for French and foreign vessels."^{19a}

^{19a} It will be noted that this duty was discharged not by the Committees designated, but apparently by Ducher himself. See above,

The proposal met with some opposition. Ramel-Nogaret demanded the adjournment of the first proposition, on the ground that the whole customs system, instead of being increased by the addition of new functions, ought to be abolished. Barère, however, promptly replied, calling upon the Convention to distrust "that system of pretended philanthropy which seeks to induce you to abolish the customs. That system is supported by the English economists, who wish to induce you to accept it, because they know that their own country will have the advantage. . . . It is only after seven or eight years, when our industry and manufactures shall have been sufficiently revived and developed, that it will be proper to take up the question whether the customs should or should not be abolished." This indication of the position of the Committee of Public Safety was apparently sufficient to bear down all opposition, and the decree was passed without amendment.²⁰

The third part of Ducher's program was the next to be enacted into legislation. "The central bureau of 'exterior' customs, after all these recombinations," he had maintained, "ought to go to the Department of Foreign Affairs, to the Ministry of the 'Exterior,' where the treaties of commerce and navigation between France and the

the discussion of duties of navigation in connection with the Act of 27 Vendémiaire.

²⁰ *Arch. Parl.*, LXXIV, 604.

foreign powers, the commercial laws, the tariffs and the statistics of commerce and of the navigation of each foreign nation are to be found. . . .”

“Why,” he asked, “should the customs be left to three other ministries, which are today really strangers to the affairs of foreign commerce? Let the statements of the receipts from the customs be sent by the Ministry of Foreign Affairs to that of Public Contributions as long as it is not suppressed, although Clavière has so dearly demonstrated its uselessness; let the ministers of the interior and of the navy command the public forces for the protection of the guards of commerce on land and sea. That division of functions will not injure the services; but it is absurd that the laws and tariffs for foreign affairs and external customs should not pertain to the Ministry of Foreign Relations.”

In accordance with, and apparently as a result of Ducher’s arguments, the second article of that curiously conglomerate act of October 8, 1793, by the other articles of which the consular bureau was suppressed, the Customs Commission established, and all bounties and subsidies discontinued, effected the transfer of the Customs Administration: “La régie des douanes est distraite du département des contributions publiques, et réunie à celui des affaires étrangères. Les papiers et correspondances concernant cette régie seront transférés, sans délai, du bureau des contributions publiques y relatif, au bureau central des douanes.”

The fourth part of Ducher's program, and the third to be embodied in legislation, was the establishment of a system of periodical statistical publications in regard to the commerce and industry of France. Each year, he had proposed,²¹ an official of each department of France, should publish the statistics of the harvests, of the manufactures and textile products, of the mines, and set forth the condition of the roads and canals and of the forests. "One or more times a week, the customs officials of each port should furnish the local printers with statements of the business of the port, the quantity of goods exported and imported, the total of duties received, the arrival and departure of vessels, to be published in their newspapers. The minister of "the exterior" should publish each month the statistics of commerce in France, every three months, a statement of foreign commerce in the colonies, and each year, a general table of the total commerce of the French and of each foreign nation. In addition, he was to publish treaties, laws and tariffs of foreign powers, and studies of the constitutions, the population, the land and sea forces, the character and methods of taxation, the revenue, the debt and the expenditures of each foreign power; he was to set forth each year the condition of agriculture and of manufactures outside of France, and to note the useful discoveries and inventions of for-

²¹ *Moniteur*, May 7, 1793.

eign scholars and mechanics. In short, Ducher proposed to establish as a governmental enterprise something very like the present *Statesman's Year Book*.

This proposal, with only slight modifications, was presented by Bourdon de l'Oise in the name of the Customs Commission to the Convention October 28, 1793.²² The proposal for departmental statistics had been dropped and the requirement of publication by each customs bureau was reduced to a requirement to post each day in a conspicuous place in the bureau the business done during that day. Otherwise the proposal was, like that of September 21, almost word for word identical with the phraseology of Ducher's article of May 7, 1793. An attempt was made to secure the adjournment of the discussion, but without result. Cambon opposed the authorization by law of any more "affiches" which nobody read. Thibault suggested the establishment of a gazette which should publish all official information and laws. Nevertheless, after some debate, the article in question and the decree as a whole were passed practically as presented.

The first part of Ducher's program, the last to be enacted into legislation, was the reorganization of the customs service on a more economical basis. The history of its development is somewhat more

²² *Procès Verbal de la Convention*, Oct. 28, 1793, pp. 171-173; *Journal des Débats*, Brumaire, p. 102.

complex, but serves to illustrate even more clearly than the others the considerable influence which Ducher was able to exert.

His proposal was briefly but clearly stated in his article of May 7. "The logic of the case and the necessity of economy invite you to suppress the three administrators and twenty directors. Ought the one hundred sixty captains-general, sixteen hundred seventy lieutenants, seventeen hundred forty-nine sub-lieutenants and seventy-five inspectors be continued? Such a military organization is unknown in the customs systems of England and the United States. The number of clerks in the offices similarly exceeds the needs of the service."

The first proposal of the Customs Commission for the reorganization of the customs service was presented to the Convention by Bourdon de l'Oise November 28, 1793.²³ Although printed under Bourdon's name,²⁴ it was the work of Ducher.²⁵ Nevertheless, the proposal does not embody the characteristic ideas of Ducher. Of the twenty-

²³ The presentation of the proposal is not mentioned in the minutes of the Convention, but the editors of the *Archives Parlémentaires* (volume LXXX, page 316) are able to quote reports of the presentation from five different journals.

²⁴ *Projet de décret sur l'organisation des brigades et bureaux des douanes, par Bourdon de l'Oise*. Reprinted, *Arch. Parl.*, LXXX, 316.

²⁵ At a later date Ducher submitted it to the Committee of Public Safety as one of the bases of a claim for compensation, which was approved by Buchot. See Appendix IV.

six articles, the most important provided for the abolition of the old system of inspectors and the substitution of a system of travelling inspectors. At each of twenty principal ports two receivers of customs were to be placed, whose functions should be similar, respectively, to those of the Collector of Customs and those of the Naval Officer in the American system. The remainder of the proposal was wholly concerned with purely civil service regulations. Charlier, however, objected to the consideration of so important a decree without due notice being given and the discussion was accordingly postponed. Before the proposal was taken up again it had undergone a radical change, as a result, apparently, of a conflict of opinion between the customs administrators and Ducher.

When the Customs Commission was formed, one of its first acts, apparently, had been to require of the customs administrators some statement of the questions and problems that two years of experience with the Act of August 22, 1791, had given rise to and which it would be necessary to consider before framing any legislation in regard to the organization. Such a statement, the administrators submitted some time in the course of the month Brumaire.²⁶ They recommended some

²⁶ *Mémoires présentées à la Commission des Douanes par les régisseurs. Imprimés par ordre de la Convention Nationale.* Paris: N. d. The copy in the Bibliothèque Nationale is marked, in handwriting, "Frimaire An II;" and in the *Catalogue de l'his-*

modification of the organization, particularly in the higher grades of the service, and a very considerable reduction in the personnel. Apparently, however, they were far from agreeing with the drastic criticisms of Ducher and especially his proposals of thoroughgoing reorganization. They pointed out that they had already reduced the number of customs officers ("preposés") from 13,284 to 12,000 and that a further reduction to 11,500 was possible and desirable. Similarly, they pointed out that the inspectors had been reduced in number from seventy-five to fifty-six, and that a much further reduction was possible if the next higher grade, the directors, were retained. On the other hand, the directors, although important, could be dispensed with if the administration were given a free hand in the promotion of the more talented of the *preposés*. The virtue of economy, however, in the view of the administrators, could be pushed too far. Apparently alluding to Ducher's schemes, but without mentioning him by name, their report continues: "It is a fact as constant as it is too much ignored

toire de la France that date is given as the date of the pamphlet in question. On page 29, note, however, the *régisseurs* refer to the act requiring publication of commercial statistics, passed 7 Brumaire, An II, as the act of "7 du courant." Furthermore, two *projets* of a Customs Code, each embodying suggestions, were printed before this date, the one on 15 Brumaire, the other on 2 Frimaire. See below pages 162 and 163. The *Mémoires* seem to have been published, then, in the month of Brumaire after the seventh and probably before the fifteenth.

that proposals apparently useful and at first glance seductive, often deceive the hopes which they have aroused when they are put into execution. In the silence of the study, a plan is conceived, formulated, arranged without practical difficulty, to the taste of its author. Suppressions are easy to propose and even to carry out, but it is dangerous to carry them beyond the limits which a long experience has served to indicate. Often, in yielding to the natural desire to present economical plans, one entails mischievous consequences which a reduction of expense is far from compensating."

This attitude of hostility on the part of the customs administrators was to prove costly to them. Before the proposal of November 28 could be presented again to the Convention, it had been replaced by another proposal of Ducher's radically different in character and much more thoroughgoing in its terms, which involved the total abolition of the Customs Administration itself. Apparently their criticism of his plans had been taken as a challenge by Ducher and he set about to secure their political destruction.

On November 12th he published a pamphlet under the title, *Douanes Nationales et Affaires Étrangères*, in which he offered a proposal by the terms of which, in addition to the reform of the customs service, the whole Department of Foreign Affairs was reorganized to assimilate the bureau of customs, which had been added to it by the decree of October 8. This was accomplished in

two brief articles. The first article suppressed the whole existing organization of the Department of Foreign Affairs, the central bureau of customs and the administrators. The second article provided for the reorganization of the whole department into two divisions, National Customs and Foreign Correspondence, and eight bureaus, each with a chief and "sous-chef" with salaries of 8,000 livres and 6,000 livres respectively. Sixty thousand livres was appropriated for clerks and forty thousand for expenses.

The remaining seventeen articles were devoted to the reorganization of the customs service itself. Although both proposals were in regard to the same general subject, almost the only point of similarity between this part of Ducher's second proposal and his earlier one was the plan to establish twenty inspection districts with forty inspectors. For the rest, the first proposal had offered only modifications of the existing system. The new *projet* presented a new system. Article 3 abolished the existing organization of the customs down to the customs officers. Articles 4 and 5 reduced the number of customs officers both in the offices and actually engaged in the police of the coasts to the numbers recommended by the administrators. Articles 6 and 7 divided the coast into twenty "inspections commerciales," under the control of forty travelling inspectors. The rest of the act was devoted to the duties and relations

of the employees thus established. Careful provision was made for the compilation of the statistics required by the law of October 28. The collectors of the duties were responsible to the travelling inspectors for their collections, and the travelling inspectors to the Executive Council.

Ducher's new *projet* was presented to the Convention December 2 by Bourdon in the name of the "Comite [*sic*] des Douanes" in twenty-two articles instead of Ducher's nineteen. With the exception of two articles it was accepted as read. Articles 6 and 7, however, which provided for twenty inspection districts and forty travelling inspectors, were adjourned until December 16,²⁷ when, instead of Ducher's list of twenty inspection districts, an almost entirely new list of forty districts was proposed by Bourdon de l'Oise.²⁸ Meanwhile, upon the motion of Barère, reporting for the Committee of Public Safety, the articles which had reduced the number of employees had been repealed "pending the final organization of the maritime customs service."²⁹ With these modifications, the law was passed December 16, 1793.

This measure was a distinct advance upon the principle of Vergennes, that the customs were

²⁷ *Arch. Parl.*, LXXX, 522.

²⁸ *Ibid.*, LXXXI, 546.

²⁹ Dec. 4, 1793. *Ibid.*, LXXX, 629. Apparently the words quoted refer to the act of 4 Germinal An II, which was under discussion at the time.

the concern of the Minister of Foreign Affairs as well as of the Minister of Finance. It made the whole regulation of foreign commerce, embodied in the customs and navigation laws, the exclusive concern of the Minister of Foreign Affairs. The tariffs were to be envisaged henceforth as instruments of foreign policy, no longer as sources of revenue. Nothing could more plainly mark the act as an expression of the protectionist temper of the great Committee of Public Safety and of the Convention which it controlled. Scarcely less important, certainly no less characteristic of the work of the Convention, was the thoroughgoing destruction of the old system of customs administration. To transform the customs system from a mere instrumentality of revenue collection into an adjunct of national commercial policy, it was necessary to sweep away the last vestiges of the system of the farmers-general, with its sectional and provincial diversities. In its place was put a system thoroughly national and uniform in its principles, in the creation of which Ducher was largely influenced by the example of the national system established by the first Congress of the United States, in its act of August 4, 1790. The tough and resistant fiber of old administrative entities does not yield easily to legislative modification. The superiority of the old institutions, at least in vigor and resiliency, to the creation of Ducher was soon to manifest itself.

Nevertheless, his work seems to have left something of a stamp on the later history of the customs service. How the act of December 16, 1793, was presently repealed and something approaching the old organization re-established will be taken up in the final chapter of this essay, devoted to an estimate of the significance of Ducher's work.

The execution of the act was far removed from its passage. In attempting so drastic a reorganization of two services so complex and extensive as the Department of Foreign Affairs and the Customs, the Commission and Ducher encountered very reluctant material, the more so since the attempted amalgamation was distasteful to both services. Apparently nothing was done for some time to carry out the terms of the act. Thereupon the Commission set about to force action by another decree, which, upon its proposal, was passed by the Convention January 17, 1794. This decree ordered the Minister of Foreign Affairs to present a statement showing the organization of the employees in his department, "the whole in conformity to the decree of December 16." He was further required to have all the records of the "*ci-devant Régie*" transferred to the offices of the department at No. 4, Rue Cerutti, closing up at the same time the accounts of the administrators. Other articles provided for the continuance of the appropriations of the laws of

April 23, 1791, and March 11, 1793, except in so far as the services had been specifically reduced, and directed the national treasury to see that there was no delay in the payments.³⁰ These last provisions were apparently due to the postponement of articles 4 and 5 of the decree of December 16 noted above "pending the organization of the Customs Marine service" and the delay in presenting that act.³¹ In March, they had to be repeated to extend the old appropriations to 30 Germinal (April 19, 1794).³²

Even this act was not sufficient to bring about enforcement. A little less than a month later, the Customs Commission, probably in response to protests of the Department of Foreign Affairs as to the lack of accommodations adequate to the needs of the two services, secured the passage by the Convention of a third decree which directed the transfer of the ministry and bureaus of Foreign Affairs from 4 Rue Cerutti to a building belonging to the nation and known as the Maison Beaujon. In addition to the offices at 4 Rue Cerutti, the bureaus of the customs service were to be moved to the Maison Beaujon in conformity to the Act of January 17, as well as the library and archives of the department which had hitherto remained at Versailles and Fontainebleau.³³

³⁰ *Procès-Verbal de la Convention*, Jan. 17, 1794, p. 306.

³¹ See next chapter below.

³² *Procès Verbal de la Convention*, March 19, 1794, p. 441.

³³ *Ibid.*, Feb. 10, 1794, pp. 162-163.

This high-handed disposition of national property was at once resented by the Committee on Alienation and Public Domains, which promptly secured the repeal of the Act of February 10 with an article laying down the principle that the Convention would not pronounce definitively upon any demand for public property for any purpose except after consulting the Committee on Alienation. On the other hand, the committee undertook to recommend, within five days, a proper location for the Department.³⁴ It was not, however, until February 20 that on the report of the Committee on Alienation that the department was definitively transferred to the Maison Gallifet, rue du Bac, in Faubourg St. Germain "in order to reanimate that quarter and to add value to the splendid edifices which the nation owns there."³⁵

In the spring of 1794 an attempt was made by the ex-administrators and their friends to overthrow the law of December 16 and to replace it with a tripartite organization of the department, with one of the ex-administrators at the head of each of the three divisions. According to Ducher, these divisions were to be territorial. This plan the ex-administrators, or their friends, were able to bring before the Convention,³⁶ but unfortun-

³⁴ *Ibid.*, p. 214, Feb. 12, 1794.

³⁵ *Ibid.*, XXXII, pp. 67-68.

³⁶ *Procès-verbal de la Convention*, March 30, 1794. This identification of the plan which Ducher attacked and that which appeared in the Convention, on March 30, 1794, is not complete, but

ately for its success, it was promptly referred to the Committee of Commerce and the Customs Commission, with the result that nothing more was ever heard of it.

Ducher attacked this proposal in a memoir, reprinted in his *Acte de Navigation, Seconde Partie*,³⁷ which was probably presented to the Committee and the Commission. If it were possible, he wrote, to conceive an organization of the customs as vicious as the central bureau of the former administration of the customs, it would be the plan of division of labor which it is desired to substitute for it in order to transform the three administrators into chiefs of division. The effect of the proposed scheme would be simply to multiply places, complicate the machine and diminish its activity. There are two and only two natural divisions to be made; the bureau of activity, that is to say the bureau which sends out the laws, issues clearance papers, directs the activities of the inspectors, etc., and the bureau of accounts,

the words of the *procès-verbal* leave but little doubt: "sur la motion d'un membre, la Convention Nationale renvoie au comité de commerce le projet de décret sur une nouvelle organisation des douanes qui a été imprimé et distribué, afin que la commission des douanes et ce comité se concertent ensemble en faire un prompt rapport." The words in italics could refer only to a *projet* brought to the floor of the Convention independently of the two Committees. It is possible, of course, although improbable, that this refers to a proposal from still a third source.

³⁷ For the *Acte de Navigation, Seconde Partie*, see bibliography and chapter 3 below.

which naturally divides into three parts, those concerned respectively with receipts, expenditures and statistics. "To divide France into three regions and to make each third a separate entity" for purposes of customs administration "is to destroy unity and to triple the labor ; it is conserving the spirit of Roland, who had printed twenty-six different tables when two would have been more useful."

As a matter of fact, although the plan to establish three geographical divisions came to nothing, three divisions instead of two were made in the organization of the Bureau of Customs, and Colin and Magnien, two of the ex-administrators, received appointments as heads of the first and third division respectively.³⁸

³⁸ Gerbaux et Schmidt, IV, 464.

CHAPTER II

THE CODE DES DOUANES

THE last piece of legislation in the development of which Ducher and the Customs Commission coöperated was the act of 4 Germinal An II (March 24, 1794), known then as the *Code des Douanes*. This pretentious title was not at all justified, as the act was by no means a complete statement of the law of the customs service. Indeed it was based very largely on the act of August 22, 1791, which could with much more propriety be called a code. Of the seventy-one articles of the *Code des Douanes* some forty-seven are substitutions, modifications or amendments of about one hundred of the one hundred sixty-eight articles of the act of August 22, 1791, none of which were specifically abrogated except in so far as they come under Article 6 of Title VII of the Act of March 24, 1794, which provides that "All the laws contrary to the provisions of the present law are revoked." In fact, both acts have had a continuous existence down to our own day, parts only having been specifically repealed.¹ The *Code des Douanes* is, then, rather a thoroughgoing amendment of the original act of August 22 than a code properly speaking. Apparently the

¹ See the last chapter of this work.

collection of the tariffs and laws relating to the customs into a "code général des douanes" was contemplated,² but this was never actually accomplished.

To understand Ducher's relation to the Customs Code, it is necessary to examine in some detail the relationship between the two acts, and, as well, another source from which certain provisions of the latter act were derived. The act of 1791, entitled, "An act for the execution of the tariff (of customs duties)" simply embodied in law the administrative practice of the Farmers-General. When the Farm was abolished by the act of March 20, 1791, the new administration, not unnaturally, was chosen from among the personnel of the old régime. It was equally natural that the organization, when it came to be established by law, should be derived directly from the practice with which these administrators were familiar.³ Accordingly, the law of August 22 very distinctly reflects its derivation from administrative orders and decisions of a semi-private corporation. Its provisions are detailed and specific to a minute degree, often wordy and redundant. They are writ-

² Title II, Article 11. "Les marchandises naufragées ou chargées sur des bâtiments en relache forcées et constatées par les préposés des douanes, pourront être importées ou devront être renvoyées à l'étranger conformément aux *lois et tarifs du code général des douanes*, ou concernant leurs différentes espèces."

³ For the history of the personnel, see Bacques, *Essai historique sur les douanes*, p. 41. For the origin of the Act of August 22, Bourne, *Revolutionary Period in Europe*, page 124.

ten almost wholly from the point of view of the administration, and while by the terms of the Act of May 1, 1791, the administrators were to act under the orders of the executive power, the actual organization provided by the Act of August 22 gave them an almost independent position like that of the Farmers.⁴

The modifications of the Act of August 22 by the Customs Code were of several sorts. Many were merely verbal condensations. In several cases, articles are restated in less than half the words required by the Act of August 22. For example, the seventy words of Article 17 of Title II, in the Act of August 22, are reduced to this: "Duties will not be paid except on the quantities established by the verification" (Title III, Article 10 of 4 Germinal). The Act of August 22 requires sixty words (Title XIII, Art. 30) to say what the Customs Code says in eight: "Les droits seront payés comptant et sans délai." Article 12 of Title III of the Act of August 22 is almost identical in sense with Article 4, Title VII, of the Customs Code, yet the latter is less than half the length of the former.

This brevity of statement is closely connected with a tendency to simplification of mechanism. For the elaborate process of seizure, confiscation and sale provided in Title X of the Act of 1791, with its detailed requirements of *procès-verbaux*,

⁴ See below page 155.

assignation, notices of sale, etc., differing as the party whose goods were seized would or would not sign the *procès-verbal*, as he was known or unknown, and as he was resident in the district or elsewhere, was replaced, in Title VI of the Customs Code, by a simple procedure applicable to all cases, consisting of five steps, a simple report of the seizure, registration, summons by posting on the door of the customs bureau, trial solely with reference to the facts before a justice of the peace, and sale after a delay of three days for appeal and five days for publication of the sale. Similarly, an elaborate set of restrictions upon the disposal of goods on vessels, shipwrecked or driven into port, which in the Act of August 22 are set forth in the ten articles of Title VI and VII, in the Customs Code are reduced to the one article (11 of Title II) with the simple provision that they might be imported or should be sent abroad in conformity to the customs laws. Another detailed set of provisions in regard to the food supplies of vessels, set forth in the six articles of Title VIII in the Act of August 22, by which different duties were charged, according to national character of the vessel, the origin of the supplies, and its relation in quantity to "the necessary," was reduced to the simple requirement that all supplies should be "subjected to the laws and tariffs on imports and exports for all quantities in excess of the necessary." (Arts. 11 and 12, Title II).

Closely connected with this tendency to simplification was a tendency to generalize the terms of the law. Where the Act of August 22 specifically permitted customs officers to go on board certain ships, the Customs Code permitted them to go on board any vessel. Where the earlier act specified that a second visit should be made by the specified bureau of control, the later one directed that the merchandise could be examined at each bureau of entry or exit on the route. The Act of August 22 provided that the period of each exportation under bond should be negotiated by the customs officers and the exporters; the Customs Code provided a fixed period for such exportations according to the part of the world to which the exportation was made. The Act of August 22 specified exactly in what manner longer delay should be justified; the Customs Code simply provided "if the delay is justified." Similarly the various processes of sale provided by the earlier act were reduced to the one simple form of procedure.⁵

More important, perhaps, than these purely administrative changes, were certain modifications that illustrate that tendency to a stern and uncompromising nationalism which characterized the

⁵ See Title VI, Articles 7, 27; Title III, Article 8; Title VI, Articles 1, 2, 3; Title VII, Article 1; Title IX, Articles 1, 2, 3, 4, 5; Title X, Articles 10-15; Title XIII, Article 9, of the Act of August 22, 1791; Title VI, Articles 1, 6, 8, 9, 11, 12, 20; Title III, Article 2; Title VII, Articles 2, 3, of the Act of 4 Germinal An II.

Convention after the establishment of the Committee of Public Safety as the Revolutionary government of France. The act of August 22 shows a tendency to regard the Customs Administration as their predecessors the Farmers-General had been regarded, that is, as a semi-public, semi-private concern. The custom officers are the "préposés de la régie," not, as in the Customs Code, "préposés des douanes." The judges are forbidden to use their functions to the "prejudice of the administration" (Title XII, Article 4); goods seized can not be released without definitive judgment thereon, under penalty of liability "for the damages and interests of the administration." (Title XII, Article 2.) Article 9 of Title XII speaks of "redévolables envers la régie," and again of "les dommages et intérêts de la régie." In the Customs Code, in contrast to this phraseology, goods seized or abandoned are sold "to the profit of the Republic" (Article 9, Title II); goods are held by right of preëmption "on the account of the Republic," and customs officers made good "to the State" any loss incurred through an act of preëmption (Title V, Articles 1 and 4.) By the Act of August 22, the Administration is preferred above all other creditors and holds a prior lien on all the real estate of persons accountable or indebted to it (Title XIII, Articles 22 and 23). In the Customs Code, *the Republic* is preferred to all creditors (Title VI, Article 4.) But perhaps nothing else in the

Act of August 22 illustrates so well that tendency to hold the Customs Administration as a corporation, as Article 19 of Title XIII: "La régie sera responsable du fait de ses préposés dans l'exercice et pour raison de leurs fonctions seulement, sauf son recours contre eux ou leurs cautions." In the Customs Code (Title IV, Article 1), the customs officers are public officials, bearing the commission of the Executive Council and responsible as such.

This characteristic difference is carried out in several different respects. Penalties for contraventions of the law are consistently more severe in the latter act: a violation of the protective system of the nation and a refusal of its rightful revenue was worthy of more condign punishment than the evasion of obligations to a quasi-private concern. The Customs Code (Title VI, Article 2) provided that whoever should conceal or buy articles subject to seizure, or participate in an act controvening the customs laws, should be condemned in a penalty of ten times the value of the objects fraudulently bought or concealed. The penalty for failing to present articles in transit at the first bureau of entry or exit as the case might be was raised from confiscation of the goods and a fine of 100 livres to confiscation and a fine of 200 livres. The penalty for failure of a captain to present a manifest was raised from 500 livres to 1,000 livres; that for postal couriers carrying merchandise, from confiscation of the goods and a

fine of 100 livres, to confiscation, a fine of 300 livres and permanent exclusion from the postal service. The Act of August 22 excepted the horses and carts of common carriers from confiscation; the Customs Code included them in the penalty of confiscation.⁶

This nationalistic spirit is illustrated most forcibly, however, by the provisions of the decree which destroyed the old system inherited from the Farmers by which the importation of certain goods was limited to certain ports. This system was embodied in Title IV of the Act of August 22. Without entering into details, it must suffice to say here that six classes of goods were established, and in the case of each, from six to thirty ports of entry designated by which alone these classes of goods might be introduced into the kingdom. This arrangement, so contradictory in sense and in spirit to the acts of the Constituent Assembly itself, notably the act abolishing all interior customs, barriers, and removing the customs barriers to the frontiers, as well as the general abolition of privileges, was abolished by the provision of Ducher's act by which it was declared that "In all the ports and places of France the same laws, decrees and tariffs will be conformed to" (Article 3, Title I.) As a matter of fact, this provision

⁶ See Act of August 22, 1791, Title II, Articles 1, 2, 3, 4, 5, 28, 29; Title III, Articles 4, 12, 13; Act of 4 Germinal An II, Title II, Articles 1, 2, 4, 5; Title III, Articles 4, 6, 7, 8; Title VII, Articles 1, 4.

was not completely carried out. The franchises of the ports of Dunkirk, Bayonne and Marseilles still remained, although, as will be shown, earnest efforts had been made in the development of the Customs Code to break them down.⁷ With that exception, however, local privilege and discriminations had been eliminated and the customs service had been rendered wholly national in character.

It is in the study of the development of this act that the lack of the minutes of the Customs Commission is most severely felt. Sufficient evidences exist, however, to trace out the external features of that development, and establish the part that Ducher played in it.

The Customs Code was in large part based on the recommendations in the *Mémoires des Régisseurs*.⁸ The administrators seem to have contemplated submitting a "projet" embodying their own ideas. They promise (on page 8) to submit within three days after the Commission has given its decisions on the various questions raised in their memoirs, "the complete proposal for a new customs code, which will be much briefer than the law of August 22." Whether the Customs Commission deliberated on these questions and whether the administrators submitted any pro-

⁷ The question of the free ports and Ducher's relation to it will be discussed in the next chapter.

⁸ See above, page 139, note 26.

posal, cannot be determined. At any rate, none of the various forms in which the proposal appeared purport to have emanated from them. The influence of the recommendations of the customs administrators is nevertheless very obvious. In general, the whole spirit of the Customs Code, favorable as it was to strong executive powers in the customs administration, was in accord with those recommendations. More particularly, however, certain specific recommendations of the memoirs were embodied in the act. The most important of these perhaps was the suggestion that in case of seizure simple "rapports énonciatifs" be substituted for the elaborate procedure different for different sorts of cases, provided by the earlier act (Title VI, Article 8, Customs Code.) Closely connected with this were the almost equally important provisions that "in all actions in regard to seizure, the burden of proof of non-contravention was upon the defendant" (Title VI, Article 7), which made effective the recommendation of the administrators that defects of form be not permitted to invalidate a seizure,⁹ and, secondly, the prohibition of all "transactions, compositions, departs, et remises, avant ou après le jugement," (Title VI, Article 21), which "transactions," the administrators had declared, were necessary only on account of the doubtful outcome of cases initiated under the elaborate pro-

⁹ Page 6 of their *Mémoires*.

cedure of the old act.¹⁰ The recommendations of the administrators were the basis, too, for Article 7 of Title II, permitting customs officers to board and search vessels of less than 100 tons within four leagues of the coast for prohibited goods;¹¹ Article 3 of Title II extending the obligation to present manifests, to the captains of all vessels approaching within four leagues of the coast (the corresponding article of the Act of August 22 had applied only to captains entering ports);¹² Article 3 of Title VI, expressly forbidding the withdrawal of merchandise, the duty of which was more than 5%, from the customs offices without having been weighed or measured by the customs officials, and without a written permit;¹³ and Article 5 of Title VII, abolishing the special customs bureau at Paris.¹⁴ Two recommendations of the customs administrators were embodied in the early *projet* of the law, but not in the act. Article 5 of the first *projet*, dated November 5,¹⁵ defined as French all portions of territory entirely surrounded by the territory of France. This referred to the Republic of Mülhausen, in the department of the Upper Rhine, the borders of which the directory of that department had forced the

¹⁰ *Ibid.*, p. 7.

¹¹ *Ibid.*, p. 2.

¹² *Ibid.*, p. 3.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ See below page 163.

customs administrators, against their will to police as a foreign boundary.¹⁶ Of somewhat more importance was the proposal to abolish the free ports which appeared both in the *projet* of November 5 and that of November 22, but this cannot be said to have originated with the administrators. Like previous customs administrators they were hostile to the franchises of Dunkirk and Bayonne, especially the latter, and rather friendly to that of Marseilles. They favored a system of entrepôt rather than the English drawback system as a substitute for the franchise system,¹⁷ as did also Ducher.

It is to be borne in mind, of course, that while the Customs Code was being developed, Ducher and the Customs Commission were engaged in the abolition of the Customs Administration. While they did not hesitate to use the ideas of the experienced administrators, it is not probable that relations between the Commission and the administration were such as to make the submission of formal proposals likely.¹⁸

Like the rest of Ducher's work, the Customs Code shows the influence of his acquaintance with American legislation. Almost all of the second title of the Code as passed, relating to the presentation of manifests and to the general police of

¹⁶ *Mémoires des Régisseurs*, pp. 25-26.

¹⁷ *Ibid.*, p. 10; see also p. 38 in Ducher's *projet*, page 183 below.

¹⁸ See above page 142.

vessels approaching or entering ports, and scattered articles in the other title of the Code, were derived from various articles of the act of the Congress of the United States approved August 4, 1790.

The first form in which the measure appeared was in a proposal presented to the Convention by Bourdon de l'Oise November 19, 1793.¹⁹ In none of the records of the sessions of the Convention is the presentation of the proposal mentioned. Nevertheless, it seems to have encountered such decided opposition that it had to be withdrawn and revised. The character of the opposition is indicated by two pamphlets, the one signed "Lamare," the other by M. Amet Ronus. Lamare urged adjournment on the ground that "this severely prohibitive code" would weigh only on the few friendly nations and on France herself.²⁰ The applicability of his objection to the Code after the establishment of the severely prohibitive acts of September 21 and 27 Vendémiaire is not clear. The fact that he praises very highly the terms as well as the spirit of the Treaty of 1786 clearly

¹⁹ *Projet de Code des Douanes, présenté par la Commission des Douanes, 15 Brumaire, An II.* The date 29 Brumaire (November 19) is derived from the pamphlet of Lamare (see next reference below.)

²⁰ *Quelques réflexions sur le projet de décret proposé hier 29 Brumaire par le Citoyen Bourdon de l'Oise, (projet de Code des Douanes.) Paris 30 Brumaire An 2.* [Signed] Lamare. This was probably Lamarre, or Delamarre, deputy from the department of the Oise.

indicates that he was a representative of the anti-restrictionist opposition which had successfully prevented the passage of the navigation act until September 21, 1793.

The objections of M. Amet Ronus were of a different character. He pointed out that the provision rewarding seizures for fraud permitted employees to participate in the rewards without incurring any of the penalties for unjust seizures; that the responsibility for such seizures was left entirely with the State and the superior officers of the service; and that the victim of an unjust seizure had no fixed basis upon which to claim redress.²¹

The proposed code immediately reappeared under a significantly different title-page: *Projet de Code des Douanes, par G. J. A. Ducher, 2 Frimaire, An II. Réimprimé par ordre de la Convention nationale.* Before its reappearance under Ducher's name, the proposal had undergone certain changes designed, apparently, to meet the objections which had caused its adjournment. The objections of Lamare were met by the addition of one new article in the character of a preamble and the omission of four others (Articles 4, 5, 12, and 13, as numbered in the proposal as it first appeared.) The new first article was a repetition of the first article of the navigation act of Septem-

²¹ *Réflexions de M. Amet Ronus sur les saisies autorisées par le Code des Douanes Nationales, etc.*

ber 21: "The treaties of navigation and commerce existing between France and the nations with which she is at peace will be executed according to their form and tenor." Articles 4 and 5 had defined as foreign in respect to customs, laws and tariffs all portions of French territory for the transportation to which of goods it was necessary to cross or to touch (*emprunter*) foreign territory, and as French, all portions of foreign territory entirely surrounded by the territory of France. Articles 12 and 13 had provided that only products of the soil and industry of Europe should be imported by land and particularly that no colonial goods, raw or manufactured, should be imported from Europe.

The objections of Ronus were met in part by the addition of two new articles (numbered 68 and 69), which made customs officers responsible for any losses the State might incur in the exercise of the right of preëmpting goods at the declared value. An additional penalty of ten per cent plus the duties which the State would have received was also provided. Another article added embodied the suggestion of the administrators that the special customs bureau at Paris be abolished.²²

Without doubt the minutes of the Customs Commission would offer several interesting revelations in regard to the development of the Cus-

²² See *Mémoires des Régisseurs*, pp. 34-35.

toms Code during the three months which followed the publication of Ducher's second edition of the proposal. In the absence of that record, only slight indications of its progress remain. It was passed upon by the Committee of Legislation and of Marine and received the approval of the great Committee of Public Safety. It was discussed for the whole of two sessions (January 14 and 16, 1794), one of four and one-half hours and the other somewhat shorter, by the Committee of Commerce. Unfortunately the minutes of the committee give us only the slightest hint of the points which aroused this lengthy discussion; just before the adjournment of the second session, a member raised the question whether access to interior ports should be denied to foreign vessels. This was apparently an attempt to reintroduce Ducher's article 83, which proposed the prohibition, but which had been amended out of the code. The committee adjourned that question.²³ Such is the total of our information in regard to the development of the Code between November 22, 1793, the date of the *projet* published under Ducher's name, and February 28, 1794, when the result of the consideration by the Committees was published.

²³ Gerbaux et Schmidt, IV, 286-296. It should be noticed that what is printed in the minutes at this point is not the *projet* as it was discussed by the Committee, but as it was passed by the Convention. Cf. *Projet de Code des Douanes présenté par la Commission des Douanes et les Comités*, and the act as it appears in the *Procès-verbal de la Convention*, 4 Germinal An II.

Two weeks after its consideration by the Committee of Commerce, the results of the work of the Commission and the Committees was published under the title: *Projet de Code des Douanes, présenté par la Commission des Douanes, et les Comités de Commerce, de Legislation, de Marine et de Salut Public, réunis, le 10 Ventose, l'an second de la République française une et indivisible*.²⁴ The new *projet* shows at least one change of significance and great alterations in form and wording. Some modification is attributable to Ducher himself. The new provision of Article 6 of Title VI offering a reward of half the net product from the sale of confiscated goods to the seizer is the same provision that we have already noted as one of Ducher's favorite ideas and as characteristic of his legislation.²⁵

The changes in the form and wording of the act are the most obvious. Ducher's proposal had consisted of one long series of eighty-five articles, without internal organization. An attempt had been made, presumably by the Committee of Legislation, to arrange them under seven different titles, but with such indifferent success that it was necessary to use combinations of no less than twenty distinct titles for the headings. The motive, it may be presumed, was the desire to achieve the form of a code suggested by the title of the

²⁴ Hist. Soc. of Pa., Jb. 53, vol. 92.

²⁵ See above page 76.

act, and to follow the form of the Act of August 22, 1791. In addition to the change of form, much happier results had been accomplished by the verbal revision. Ducher's own style, always more forceful than logical or accurate, was more suited to controversy than to legal composition. The phraseology of the proposal as reported, on the other hand, was in general direct, comprehensive and exact.

Of more significance for the purpose of this study, however, is the relation of the substance of the code proposed by the commission and the committees to that proposed by Ducher. The whole, with the exception of one article, Article 5 of Title V, establishing the procedure to be followed by the inspectors in exercising the right of preëmption in regard to goods undervalued, was taken from the proposal of Ducher. On the other hand, fifteen articles of the proposal as it appeared under Ducher's name, and the four others of the proposal as it originally appeared under the name of the commission, which Ducher had omitted from the second edition, were omitted from the Code as proposed to the Convention. Of these, Article 83 of the proposal under Ducher's name and Articles 4, 5, 12 and 13 of the original proposal, have already been discussed. Other omissions concerned merely matters of detail; Article 27 which provided that search for smuggled goods should be carried on only by day and upon war-

rant; Article 63, which provided that an error of understatement on a manifest of one-thirtieth should involve confiscation of the whole; Article 65 which established the method of weighing; and Article 79, which was redundant in view of Article 4 of Title III.

The other omissions are more significant of the character of the discussions in the committees, the records of which are so scanty and unilluminating. From an examination of these omissions, it becomes apparent that the victory of the extreme exclusionists, which the acts of September 21, 1793, and October 18, 1793 had seemed to make definitive, had been considerably qualified during the succeeding months. The elements of opposition which Lamare represented were able to prevent the adoption in principle of the policy of exclusion and the abolition of the free ports. Four of the articles of Ducher's proposal omitted referred to the tariff. Articles 53 and 54 provided for the rates of duty on goods omitted from the tariff. The first prohibited the importation of such goods if manufactured, while raw materials were to pay 5 per ct. if imported by land or by foreign vessels, 2 per cent if imported by French vessels. The second prohibited the export of raw materials omitted from the tariff, while unlisted manufactured articles might be exported free of duty on French vessels and in any other manner at a charge of two per cent. These provisions were very much more drastic than the correspond-

ing provision of the act of August 22, 1791, (Title I, Article 5), which provided that unlisted manufactured goods were to pay an import duty of ten per cent, drugs, five per cent, and raw materials three per cent, while no duty or prohibition was imposed on the export of goods unlisted. The other two articles of Ducher's proposal omitted (56 and 57) laid down the bases on which future tariffs should be determined: "The customs tariff will be arranged with reference to the need or surplus in France and the degree of manufacture the imported goods received in France or abroad" and "the same considerations will determine the absolute prohibitions which may be applied either to land traffic or to foreign vessels alone and, as well, the discriminating duties applied to importation by French or foreign vessels or by land."

Equally significant was the omission of the series of articles providing for the abolition of the free ports. The question of the free ports had been at issue between the protectionist and free-trade elements in each of the Revolutionary assemblies and it is necessary for an understanding of the character of the issue in 1794 to review briefly its history from the beginning of the Revolution. For the sake of bringing together the whole subject, the history of which continued after the work of the Customs Commission had terminated, discussion of it is deferred until the next chapter. Here it must suffice to point out that

the disappearance of Ducher's articles providing for the abolition of the free ports and the substitution of a general system of entrepôts was another victory for the opponents of the exclusionist program.

The results of the deliberations of the commission and the committees were published on February 28, 1794, and the Code was formally presented to the Convention eight days later.²⁶ The first two articles were promptly adopted. The third was slightly amended by striking out the words, "non coupés par le territoire étranger," so that it was made to read, "Dans tous les ports et lieux de France on se conformera aux mêmes lois, décrets et tarifs." At this point a deputy attempted to reintroduce the question of the free ports, demanding their suppression. After some debate, of the character of which we are not informed by any of the records of the session, the question was referred back to the Committee of Public Safety and the Customs Commission.²⁷ Two weeks later, apparently without any particular report on the free ports, the discussion was resumed and the act was passed without further serious amendment or debate. Some slight revision, of a purely verbal character, was made, but the act as passed was substantially identical

²⁶ *Procès-verbal de la Convention*, March 8, 1794, p. 129.

²⁷ *Ibid.*

with the proposal as presented by the Commission and the committees on 10 Ventose.²⁸

With the adoption of the Customs Code, its specific task complete, the Customs Commission disappears from view. A letter of the Minister of Justice to the Committee of Marine inquiring as to the proper interpretation of Article 13 of the Act of October 18, was referred to the commission, since the act had been presented by it.²⁹ This is the last allusion to the commission that it has been possible to discover. The next economic reform that Ducher was advocating—the abolition of the free ports—was to be effected through another instrumentality, the Committee on Commerce, which was by no means so completely under his influence.

The purpose of the Customs Commission had been defeated. Formed to extend to the tariffs the principles of exclusion and prohibition which had, apparently, been victoriously established by the adoption of the Navigation Act, it had encountered a too-powerful free trade opposition. The Customs Code, the final expression of its original purpose, had been reduced to a purely administrative character. Nevertheless, the tendency to exclusionism was presently carried a step further by the abolition of the free ports. In this measure Ducher also had a part.

²⁸ *Ibid.*, March 24, 1794.

²⁹ *Arch. Nat.*, D*. XVI, 3. Register of the Committee of Marine.

CHAPTER III

THE ABOLITION OF THE FREE PORTS

After the Customs Code of March 24, 1794, had been passed, the next measure of economic reform to the support of which Ducher contributed his energetic pen, was the abolition of the free ports. Ten days after the passage of the Code, the Committee of Public Safety directed the printer of the Convention to print a collection of his writings in a single volume for distribution to the Convention. This volume appeared presently as the second part of his *Acte de Navigation*.¹ Like the first part, it was composed principally of articles which Ducher had already pub-

¹ *Acte de Navigation avec ses rapports au commerce, aux finances, à la nouvelle diplomatie des Français. Par G. J. A. Ducher. Imprimé par ordre de la Convention Nationale du 14 Germinal, l'an II de la République française une et indivisible. Seconde Partie.* That the authorization was really the act of the Committee of Public Safety is shown by an extract, now in the *Archives des Affaires Étrangères*, from the register of the Committee, dated 14 Germinal An II: "Le comité de Salut Public arrête que l'imprimeur de la Convention imprimera en un seul feuillet les divers écrits publiés par le Citoyen Ducher sur l'acte de navigation et sur le commerce, pour être distribuée à la Convention."

Pour copie conforme à la minute déposée au secretariat du Comité.

[Signed] AUBUSSON,
Secrétaire ppal."

lished in the *Moniteur*. The first four articles, however, were new and seem to reflect Ducher's interests and activities at this particular period. The first article was an argument in favor of the immediate abolition of slavery in the colonies; it will be discussed in the chapter devoted to Ducher's relations to the Girondin-Montagnard struggle.² In the second article, Ducher replied to several attacks that had been made on the Navigation Act.³ The fourth was a reply to certain criticisms of the act of December 16, 1793.⁴ The third article, with which alone we are here concerned, renewed the attempt to secure the abolition of the free ports. For an understanding of Ducher's relation to the struggle, it is necessary to review briefly the history of the free ports after 1789 and of previous attempts to have them abolished.

The term "port franc" as it was conceived in French policy was defined by no less an authority than Vergennes. In a communication to the Congress of the United States dated June 29, 1783, he writes: "Par le terme de port franc, nous entendons une place où peuvent s'importer toutes marchandises tant étrangères que domestiques et d'où l'on peut les exporter librement."⁵ The free port was, in effect, a portion of national territory

² See below, Part IV, chap. 3.

³ See below, Part V.

⁴ See above, Part III, chap. 1.

⁵ *Arch. Parl.*, XVIII, 24.

—sometimes, as in the case of Dunkirk, part of the port, sometimes, as in the case of Bayonne, a port together with the surrounding territory—which had been left outside the customs barrier and exempted from the operation of the customs tariff. Goods of all sorts and origins might be brought into it without the payment of duties and might be exported equally free of duties and restrictions. On the other hand, with reference to the rest of the nation, so far as the customs barrier was concerned, the free port was foreign. In general, goods coming from or going to a free port, say, for example, between Bayonne and Toulouse, were subject to the same duties and prohibitions as those passing, say, for example, between Lyons and Geneva. In the period with which we are concerned this last characteristic was qualified somewhat in favor of trade that was strictly “national” in character.

At the beginning of the Revolution there were four free ports in France: Marseilles, Dunkirk, Bayonne, and Lorient. Marseilles, by far the most important, had been constituted a free port by Colbert in March, 1669,⁶ in order to enable it to compete with similar free ports on the Italian coast for the Levant trade. Dunkirk had been constituted a free port in 1662, in connection with its acquisition from England, partly in order to conciliate the citizens to the new régime. Bay-

⁶ Isambert, *Réceuil des lois anciennes*, XVIII, 205.

onne claimed an "immemorial antiquity" for its franchise, and indeed, could trace it back to the marriage of Henry II of England and Eleanor of Aquitaine; but the very antiquity and mediæval character of its privileges, which combined to give it a régime analogous to those of Dunkirk and Marseilles, made it less able to resist the attacks which the farmers-general, at various times during the eighteenth century, directed against the franchises of these three ports. Early in the century Bayonne succumbed and in spite of two vigorous attempts in 1738 and 1774 on the part of the town to recover its lost privileges, Bayonne remained in the status of an ordinary port until 1784.

The American alliance in 1778 gave a new aspect to the question of free ports. Article 30 of the treaty of commerce promised the Americans "one or more free ports where they may bring and dispose of all the produce and merchandise of the thirteen United States."⁷ In fulfillment of this promise, the government was induced by Lafayette⁸ to grant Bayonne a formal franchise, similar to that of Dunkirk. Much opposition to the reconstitution of the franchise existed within the town itself.

At the same time, Lorient was constituted a free port for the particular use of the American

⁷ *Treaties and Conventions of the U. S.*, p. 253.

⁸ *Arch. Aff. Étr.*, Mems. et Docs., *États Unis*, Vol. 2.

trade. Its principal article of commerce was tobacco, and when, in 1785, the farmers-general contracted with Robert Morris for its whole supply, to be delivered at points other than Bayonne and Lorient, the franchise of Lorient became practically worthless.⁹

The franchises of Lorient and Bayonne came into question at the very beginning of the States General. In his speech at the opening ceremonies, Necker suggested the abolition of these two ports as a proper economy.¹⁰ The surrender of privileges on the night of August 4, however, raised the question in a more critical fashion. The tenth article of the decree which embodied the acts of that famous night declared that "tout privilège particulier des provinces, principautés, pays, cantons, villes, et communautés, soit de toute autre nature, sont abolis sans retour, et demeureront confondus dans le droit commun de tous les Français."¹¹ These terms seem to involve the immediate withdrawal of the franchises; but this was not to be accomplished without a struggle that lasted not only beyond the close of the Constituent Assembly, but throughout the existence of the Legislative Assembly and the greater part of that of the National Convention.

⁹ *Arch. Aff. Étr.*, Mems. et Docs., *États Unis*, 9:81 et seq.

¹⁰ *Ouverture des États généraux faite à Versailles, le 5 mars, 1789*, p. 38.

¹¹ *Arch. Parl.*, XX, 745.

The story of the struggle for the abolition of the free ports during the Constituent is to be found almost entirely in the minutes of the Committee of Agriculture and Commerce.¹² It would be foreign to the purpose of this present chapter to recount in any detail the development of the question, to summarize even in the briefest fashion the flood of memoirs *pro* and *con* which poured in upon the Committee, or to narrate the story of numerous sessions of the Committee devoted to the question. It must suffice to state in the briefest fashion the results definitely achieved.

The different franchises were handled quite separately. That of Lorient, rendered useless by the destruction of the town's tobacco trade, was abolished without opposition.¹³ The franchise of Bayonne was the next to be attacked. This franchise was especially difficult to defend on account of the division of opinion among the inhabitants of the town itself, the disorders and riots which occurred there at several times, which usually involved expulsion of the customs officials and the fraudulent introduction of goods into the rest of the kingdom, and, thirdly, the well substantiated charges of smuggling. On November 25, 1790, the report of the Committee of Agriculture and Commerce recommending abolition, after having

¹² *Procès-verbaux des comités d'agriculture et de commerce publiés et annotés par F. Gerbault et C. Schmidt*, 4 vols.

¹³ *Arch. Parl.*, XII, 368, March 27, 1790.

been under consideration for almost a year, was presented to the Assembly by Lasnier de Vausenay. It was unfavorably received. Mirabeau objected to consideration of the question on the ground that the principles upon which the Assembly should proceed in regard to the franchises had not been determined. At his instance, it was voted that the question should be adjourned without prejudice until the meeting of the Legislature.¹⁴

The franchise of Dunkirk, after a similar period of consideration, which was marked especially by the aggressive efforts of the neighboring industrial and maritime towns like Calais and Lille to secure abolition, received more favorable treatment. The committee decided in favor of the preservation of the franchise with some changes designed solely to secure a more effective police.¹⁵ It does not appear, however, that the measure was ever presented to the Assembly, presumably because of the decision in the case of Bayonne, to leave the consideration of the question to the Legislative.

The supreme importance of the franchise of Marseilles for the trade with the Levant, recognized at all times by both friends and foes of the franchises, saved it from attack, and even enabled it to win from the Constituent two decrees as-

¹⁴ *Arch. Parl.*, XX, 746-748.

¹⁵ Gerbaux et Schmidt, I, 576, Oct. 8, 1790.

suring its preservation with some modifications that were advantageous rather than otherwise, inasmuch as they lowered the barriers between the port and the rest of the kingdom.¹⁶ Two days later, in the act providing for the execution of the new tariff, the free ports were specifically excepted from the operation of Article 1, which abolished all other existing privileges or exemptions.¹⁷ Although the Committee of Agriculture and Commerce did adopt another proposal to abolish the franchise of Bayonne^{17a} it was never reported to the Assembly. The franchises had come through the Constituent Assembly unscathed, in spite of bitter and persistent attacks. They could even claim something of an advantage by reason of the confirmation and reorganization of the franchise of Marseilles, and their exemption from the operation of the first articles of the decree of July 28, 1791.¹⁸

In the Legislative Assembly the question of the franchises took quite a different form. It became involved with the question of abolition of the customs everywhere, that is to say, the adoption of complete free trade. This conflict, the story of

¹⁶ Decree of July 21, 1791, on commerce with the Levant. Decree of July 26, 1791, on the control of the port of Marseilles. *Arch. Parl.*, XXVIII, 637.

¹⁷ *Procès-verbal de l'Assemblée Nationale*, July 28, 1791, pp. 8-9.

^{17a} Gerbaux et Schmidt, II, 378.

¹⁸ This decree was not finally passed until August 6, and not approved until August 22.

which, like that in the Constituent Assembly, is contained largely in the records of the Committee of Agriculture and Commerce, must also be passed over until some other occasion. Here again it must suffice to point out the results obtained, as they were embodied in a proposal for abolition evolved by J. Mosneron l'ainé, and accepted by the Committee of Commerce.

Instead of trying to dispose of the franchises one by one, or to judge them upon their individual merits, Mosneron proposed to substitute for the existing franchises a system of entrepôts. In order to be of general usefulness, these entrepôts, actual for goods of small bulk subject to high duties, formal—"sur registre"—for goods of large bulk and subject to lower duties, were to be established in several ports besides those actually enjoying the franchise—not in all, because of the expense involved, but in all in which there was a custom house. Something of a special position was to be conceded to the old free ports. Dunkirk and Bayonne were each to have the exclusive entrepôt for certain goods which entered, according to Mosneron, only into the peculiar commerce of each. The régime of the port of Marseilles he felt obliged to leave untouched. The hugeness of its trade with the Levant, the practical monopoly which Marseilles enjoyed by reason of its position and old custom, and the eminent practicability of the existing régime seemed to make it desirable to

abstain from any general modification. Two changes he did, however, propose. Ships coming from the Levant were to be allowed to go through quarantine at Toulon, instead of only at Marseilles as theretofore—only a slight change, he admitted, but quarantine must be maintained and to build more lazarets was for many reasons out of the question. Secondly, the requirement of a bond from merchants dealing with Africa was to be abolished as unduly monopolistic. An important feature of Mosneron's proposal was the restriction of the right of entrepôt to goods brought in French vessels or those of the country of origin.¹⁹

Although Mosneron's proposal was never reported to the Legislative Assembly, it exercised a large influence on the disposition of the franchises by the Convention. Indeed, it was on the basis of Mosneron's ideas that the abolition of the franchises were finally accomplished.²⁰ Along with several other unfinished questions, the question of the free ports was taken up in the Committee of Commerce of the Convention at its seventh session, October 22, 1792.²¹ Castilhon, to whom the subject was referred, presented Mosneron's report to the Committee, January 31, 1793.²² Later a joint meeting with the Committee of Marine was

¹⁹ See above, chap. 2.

²⁰ See Magnien, *De l'influence que peuvent avoir les douanes sur la prospérité de la France*, p. 30, note.

²¹ Gerbaux et Schmidt, III, 593.

²² *Ibid.*, p. 719.

devoted to a reading of the report, but the discussion was adjourned to afford an opportunity to invite the deputies of the free ports to participate in the discussion.²³ With this adjournment, the question ceased to command the attention of the Committee, although the question whether it would not be useful to increase the number of free ports was formally referred to it by the Convention on February 3, 1793.²⁴

The next attempt to settle the status of the free ports was that of Ducher and the Customs Commission. In the *Projet de Code des Douanes* in both the forms in which it appeared in the fall of 1793, the entire abolition of the franchises and the substitution of a system of entrepôts was proposed. Six articles embody the provisions.²⁵ The three franchises were to be suppressed. The customs bureaus and posts were to be so placed and the guards so stationed as to include all the contiguous territory of France within the "barrières conservatrices de la navigation et du commerce des Français." Goods actually in entrepôt in the existing free ports might be exported freely, or sold in France after conforming to the provisions of the laws and paying the proper du-

²³ Gerbault et Schmidt, I, 733. Feb. 6, 1793.

²⁴ *Arch. Parl.*, LVIII, 179.

²⁵ Articles I, III, IX, XI, LXXX and LXXXI of the proposal appearing under the name of the Commission; Articles II, IV, VIII, X, LXXX and LXXXI of that appearing under the name of Ducher.

ties. A system of *entrepôt* was provided. Goods might be kept on shipboard or in warehouses at a charge of 1/4% a month. For goods the entry of which into France was prohibited, the privilege should continue only for four months, and at a charge of 2% a month, plus 1% for storing.

The similarity between the proposal of Ducher and the Customs Commission and that of Mosneron is sufficiently obvious. Both substitute for the "franchises partielles" of the favored ports a system of *entrepôts*. Both concede a special position to Marseilles. The differences, however, are striking. Mosneron proposed to establish *entrepôts* at certain specified ports where the amount of the trade justified the erection of official warehouses. The Customs Commission proposed a system which would apply to all ports, even those where goods would have to be kept on shipboard. Mosneron left the control of the port of Marseilles as it had been provided by the law of July 26, 1791, thus conceding in form a special privilege. The Customs Commission on the other hand proposed to abolish that franchise in form, but to retain for the Levant trade the requirement of quarantine at Marseilles and Toulon, which, of course, practically served to maintain the monopoly of Marseilles.

Two of the articles of Mosneron's proposal do not appear in the proposed Customs Code, namely, the one abolishing the requirement of a bond for

merchants in the African trade, which had no place in a law on the organization of the customs service, and the one restricting the right of entrepôt to French vessels or those of the nation of origin, which would have been superfluous after the Navigation Act of September 21.

The abolition of the franchises was destined to suffer another postponement. Before the proposals of Ducher and the Customs Commission were accepted by the committees, the articles referring to that subject were excised.²⁶ When the Code was reported to the Convention, an attempt was made to reintroduce the subject, but after some debate, it was referred back to the Customs Commission and the Committee of Public Safety.²⁷ The re-reference was apparently a defeat for the proposal, as no report was made by either body.

With the disappearance of the Customs Commission after the adoption of the Code, Ducher continued his efforts to secure abolition, apparently as a free lance. It was under these circumstances that he published, as the third article of his *Acte de Navigation, Seconde Partie*, a discussion of the free ports entitled "Des servitudes de Marseilles, Bayonne et Dunkerque." The article had probably been used as a memoir in connection

²⁶ *Projet de Code des Douanes présenté par la Commission des Douanes et les comités, etc.*, 10 Ventose An II.

²⁷ *Procès-verbal de la Convention*, March 8, 1794, pp. 128-129.

with the debates over the Customs Code in the committees. It is based on sound Revolutionary doctrine, the principal of national unity. The navigation act, the new customs code and all the republican decrees establishing the commercial system of the French, Ducher asserted, made the franchises of the three ports slavery either for them or for the other ports of France. "If those ports are free when will the others cease to be slaves?" He argued that the franchises were inconsistent with the commercial unity which had been the purpose of the Revolution since the interior barriers had been abolished. The franchises were costly to administer and cut heavily into the revenue of the state. They were injurious to the interests of the nation at large, and even to those of the inhabitants of the ports themselves. They encouraged smuggling, thus depriving the national industry of some of the benefits of the protection designed for it. They directly assisted the sale of foreign products and manufactures, thus injuring the national export trade.

"Can one think of continuing three exceptions to the Navigation Act," he demanded in conclusion. "Citizens of Marseilles, of Bayonne, of Dunkerque, I summon you to commercial unity, to the enjoyment of laws the most propitious to the activity of all members of the French family. The year 1792 saw enter in our ports eight hundred fifty-one foreign vessels, coming indirectly from

foreign countries not their own. They secured one hundred thousand tons of freight which you will henceforth share, by virtue of the law creating direct commerce (the Navigation Act) with each foreign people. The English, and the Dutch will come no more from Spain, Sardinia, Genoa, Tuscany, Sicily, Venice into the ports of France; Marseilles will have in the commerce of the Mediterranean the distinguished rank which belongs to it by all titles, and France, commercially unified, will be the general entrepôt of all the nations."²⁸

The effort of Ducher to renew the movement for abolition, however, had no immediate result. It was not until October, 1794, that Scellier, probably at the instigation of Ducher, again proposed abolition in the Committee of Commerce. The capture of Ostend by the French armies removed one of the principal arguments in favor of the continuance of the franchise of Dunkirk, and afforded Ducher a text for another attack on the franchises in general. This attack was published in the *Moniteur* of October 25, 1794, two weeks after Scellier had introduced his proposal in the Committee of Commerce.²⁹ Certain particular points of similarity, however, seem to indicate a close connection between the proposals of Ducher and Scellier. It was also perfectly in accord with

²⁸ This article was reprinted in the *Moniteur*, April 19, 1794.

²⁹ Gerbaux et Schmidt, IV, 477.

Ducher's practice, as has been pointed out, to publish as an article in the *Moniteur* a memoir which he had previously presented to a committee.³⁰

The argument of his article was brief. Now that Ostend had become a new port for France, he suggested, a conquest of equal general interest would be to complete the "francisation" of the three principal ports of the Republic. The same legislation ought to bind together all parts of the empire; Marseilles, Dunkirk and Bayonne ought to be incorporated as intimately as Ostend.

To this article Ducher appended a *projet de décret*, consisting simply of the six articles of the Customs Code, as proposed by the Customs Commission, which had provided for the abolition of the franchises but which had been rejected by the committees.³¹ Certain significant modifications, however, indicate a new step in the development of the proposal for abolition. Mosneron's plan for a general system of entrepôt does not appear in the new proposal. Provision is made only for an entrepôt of 18 months for goods coming from the Levant, India and China, the entry of which into France was prohibited by law. The requirement of quarantine at the lazarets was retained,

³⁰ See above page 59.

³¹ He included also the rejected articles VII and VIII of the first proposal and Article LXXXIII identical in both. Articles VII and VIII proposed to prohibit the importation of colonial goods from Europe. Article LXXXIII proposed to forbid river navigation to foreign vessels.

but all reference to the location of these lazarets was omitted, probably to attract support from other places desiring the establishment of lazarets in their ports.

On October 10, 1794, Scellier, as has already been noted, presented his proposal in the Committee of Commerce. It was reduced to the lowest possible terms. Article 1 declared the franchises suppressed. Article 2 directed that three days after the publication of the decree, the customs bureaus should be placed at the "exterior" boundaries of these places. Article 3 referred to later consideration the "means of assuring to the excess of importations from the Levant the outlet which the franchise of Marseilles facilitated." Quarantine was not mentioned, the provision for the admission of goods actually in entrepôt in the free ports was omitted, and no provision whatever was made for entrepôt privileges before the report of the committee should be made.³²

Scellier's report was adopted by the Committee of Commerce and referred to the Committee of Public Safety. It does not appear, however, that this reference was made, as the proposal reappears in the Committee of Commerce about a month later without any indication that the Committee of Public Safety had been consulted. At this time the reporter was instructed to include a provision for assuring the outlet for the French Le-

³² Gerbaux et Schmidt, II, 477.

vant trade in order to avoid the break which the adoption of the decree as it stood would make in the commerce of Marseilles.³³

Two weeks later (November 29, December 1, 1794) the proposal was submitted again with three new articles, two of which established the privilege of a free entrepôt of eighteen months, with the right of indefinite extension at a monthly charge of one-half per cent for all goods coming from the Levant. The restriction of the privilege to prohibited goods and the fees proposed by Ducher had been dropped. Although the requirement of quarantine was not included, this was a substantial victory for Marseilles, which was apparently able to bring strong influences to bear on the committee. Mosneron's idea of a general system of entrepôt also reappears. To counterbalance the appearance of conceding special privilege, a fifth article promised that "if it was recognized that by means of other entrepôts commerce could with advantage be carried on with goods of one foreign country in other foreign countries, all the facilities will be accorded which could be reconciled with the national interests."

Scellier reported the measure to the Convention at once.³⁴ His report repeated the arguments with which we are already familiar. The franchises were contrary to the principles of August, 1789, and, as well, unsatisfactory in operation.

³³ *Ibid.*, IV, 567, Nov. 17, 1794.

³⁴ *Rapport et projet de décret sur la suppression des franchises, par Scellier. Frimaire, An III.*

Bayonne and Dunkirk had become merely objects of expense and centers of smuggling—a burden to the government and a scourge to commerce. As in previous proposals, Marseilles was put in quite a different category. For the absolutely necessary encouragement of the Levant trade, an entrepôt system should be provided at once for that purpose, while for the purpose of maintaining equality before the law, an entrepôt system should be promised that would be applicable to all ports alike.

The defenders of the franchises were able to secure a reference to the Committee of Public Safety, for a report on the motives which had actuated Colbert in establishing the free ports and on the political and diplomatic implications of abolition. Again the reference to the Committee of Public Safety was evaded,³⁵ and on December 31, 1794, early in the session³⁶ Scellier presented the proposal once more, with some additional arguments in response particularly to some objections from Marseilles. The influence of Marseilles was strong enough to secure in the Convention itself the readdition of the provision continuing the requirement of quarantine at Toulon or Marseilles, but otherwise the discussion seems to have been very brief, and the decree was passed.³⁷

³⁵ Poultier, *Motion d'ordre sur le décret qui suspend les franchises*. . . . *Nivose An III*. Reprinted in *Moniteur*, Jan. 13, 1795.

³⁶ *Ibid.* See also *Journal des Débats*, *Nivose An III*, p. 127.

³⁷ *Procès-verbal de la Convention*, Dec. 31, 1794, pp. 181-182.

An attempt was made to secure a reconsideration of the decree. Poultier, deputy of the Department of the North, presented a "motion d'ordre," basing his objection on the failure to submit the measure to the Committee of Public Safety. After discussing some of the difficulties to which the decree would give rise, he expressed a hope that if the Convention, after mature discussion, still saw fit to maintain the suspension it would substitute a more generous system of entrepôts.³⁸

What had happened was, apparently, something like this. The advocates of abolition along the lines laid down by Mosneron had been unable to break down the opposition of the free ports by the offer of a system of entrepôts, which, on the other hand, had probably cost them some support, among the radical protectionists. Then the general system of entrepôt and even the entrepôt for Levant goods was abandoned. This threat brought round the deputies of Marseilles, who were able to secure in exchange for their support the retention of the privilege for the Levant trade. The supporters of Dunkirk and Bayonne on the other hand, still recalcitrant, were without influence in the development of the decree, hence no provision was made for a general system of entrepôt, and the act was passed over their continued

³⁸ Poultier, *Motion d'ordre sur les franchises, Moniteur*, Jan. 11, 1795.

opposition by a combination of protectionist and Marseillais support. Now they sought a reconsideration in the hope of being able to secure the less valuable and less exclusive privilege which they had at first spurned.

The *motion d'ordre* of Poulthier was referred to the combined Committees of Public Safety and of Commerce, but received scant consideration. In the latter committee it was referred to Scellier, who reported that there was no occasion for reconsideration.³⁹ In spite of a hearing held before the Committees of Public Safety, of Commerce and of the Marine on demand of the commune of Dunkirk,⁴⁰ they remained obdurate. February 25, 1795, Scellier's report, that there was no occasion for reconsideration, approved by the three committees, was adopted by the Convention.⁴¹ The time-honored system of the free ports was at an end. In spite of efforts often renewed, in the days of the Consulate and the early Empire,⁴² at the Restoration,⁴³ and even in our own day,⁴⁴ only for a moment at the Restoration, was Marseilles, alone of the free ports, able to enjoy a shadow of her former privileges.

³⁹ Gerbaux et Schmidt, IV, 656. Jan. 28, 1795.

⁴⁰ *Arch. Nat.* D*. XVI. 10. Register of letters addressed to the Committee of Marine and Colonies.

⁴¹ *Procès-verbal de la Convention*, Feb. 25, 1795, p. 117.

⁴² Peuchet, *Bibliothèque Commerciale*, *passim*; Magnien, *De l'influence que peuvent avoir les douanes*, pp. 30-31.

⁴³ Masson, *Les ports francs*, pp. 88, 89, 113, 134.

⁴⁴ *Ibid.* Introduction.

PART IV

DUCHER AND THE GIRONDE

CHAPTER I

DUCHER'S PROGRAM AND THE PARTY ALIGNMENT

THE study of Ducher's career and the development of his doctrines raises constantly the question, what was the relation of the man himself and of the ideas for which he stood to the party alignment? Do we have here an issue which rises above the perfervid denunciations of supposed "federalism," "royalism," "aristocracy," favor to England, and so on, so freely charged against the followers of Brissot by their contemporary enemies—an issue which rises above the cautious and subtle differentiation elaborated by various modern writers and establishes between the Mountain and the Gironde a clear and firm dividing line, like that between modern parties when they happen to have real issues?

Ducher himself speaks out in no uncertain terms on this subject. "The same men," he writes in April, 1794, of the Girondists, "desired to declare war on all Europe, to extend the habit of speculation to the smallest villages of France, to obstruct the French navigation act, to overthrow the customs barrier which protects the national

commerce, to destroy the general government of the United States of America, to turn them over to George III, and to Anglicize, Orleanize or federalize France: these same men have not desired to pay the public debt, that enemy of agriculture, of commerce, of liberty and of equality in the democracies; the public debt, the strong support and the revolutionary destroyer of thrones.”¹

The Girondist leaders, particularly Brissot and Clavière, had been distinctly anti-mercantilist from their political beginnings. Brissot had apparently come under the influence of Adam Smith as a result of his long residence in England. In the essay on the commerce of the United States which he and Clavière wrote in 1787,² he sets forth very clearly his anti-mercantilist theory. I quote his summary from the English translation of 1794: “I think I have proved,” he writes, “1st, that the balance of trade is but an insignificant word; that the balance paid in specie is no proof of disadvantageous commerce on the part of the nation which pays it, nor advantageous to the nation which receives it; 2nd, that the only method of estimating the increase of trade is by the increase of population; 3rd, that it is impossible to judge exactly the quantity of money in a country; 4th, that metals are not real riches; 5th,

¹ *Acte de Navigation, Seconde Partie*. Article “Blancs, jaunes, et noirs.”

² *De la France et des États-Unis*, London. 1787.

that paper money is better than hard money for interior circulation." All of these principles, except the last, are obviously derived directly from *The Wealth of Nations*.

Similar principles were the basis of Clavière's criticism of the proposal of a restrictive system of navigation in 1791. This attack, occasioned by the pamphlet of Mosneron mentioned above,³ was inserted in a long note in the second edition of the *Adresse de la Société des Amis des Noirs*,⁴ published in July, 1791. It is so characteristic of the attitude of the Girondist leader and so significant of the later alignment on the navigation act in the Convention, that I venture to present it in almost full quotation.

"For example," the note begins, "will the exclusive navigation system proposed by M. Mosneron, result in cheaper shipping for Frenchmen? What advantage will it secure if we have to leave to foreign vessels the transportation of our colonial products?

"They cannot be prevented from touching our ports, and consequently we shall find ourselves exposed to constant violations of the act which restricts to French vessels the coastwise trade. Furthermore, will not such an act deprive foreign ship owners of one of the resources by means of which they can carry our colonial goods at a

³ See page 57.

⁴ Page 143.

freight charge which our vessels, according to M. Mosneron, cannot meet? Is it not singular that it is possible for shippers from Hamburg to come to France, load up with sugar, coffee, etc., to carry home, and that it is not possible for French vessels to carry those same goods to Hamburg and to return loaded like the Hamburg vessels? Is it not still more singular that English vessels and Dutch vessels can carry on that trade and that it is impossible for Frenchmen? M. Mosneron calls that a trade of small profits, with which an opulent nation, making huge gains, cannot concern itself. That opinion rests on an error, because the nation is not opulent, especially if its prosperity depends, to the degree to which M. Mosneron supposes, on the export of our colonial products. That opinion, I say, is false, and if it is given only in the belief 'that interest on money has lowered in France and that our navigation should therefore be free from the limitations which it has suffered' we will say to M. Mosneron that it is not thus that one advances towards the truth: more freedom is what is needed.

"An exclusive navigation act," continues Clavière, "can be only an occasion of difficulties, of discontent and of frauds. If it has been of advantage to the English, it is to the ignorance of the other nations rather than to the merits of the act itself, that that is due. If France had had then a masculine and vigorous spirit like Crom-

well at the head of things, and a good administration, the act would have been regarded as bad policy. . . . There is no comparison to be drawn between foreign freight carriers called into France to transport merchandise by land, and vessels voyaging from one port of France to the other; it would be truer to say that as an Englishman or a Dutchman finds it less convenient to establish freight service by land in France, so a Frenchman has the advantage in the coastwise trade. Give him a privilege and your French coastwise trader will become a tyrant."

Clavière reproaches Mosneron for not being abreast of the times. "Mosneron," he wrote, "is clinging to outworn ideas. *Oter, enlever, empêcher*, belong to the old lexicon. The Dutch do not catch a herring the less because of the progress of England in the fisheries, but the whole world consumes more herrings. It will consume still more when absurd institutions cease to prevent the French from being fishers, if they so desire."

Mosneron thinks that it is always necessary to refer to England. Yes, but often to act in a contrary sense, replies Clavière. Servile imitation is rarely happy: "When the treaty of commerce has expired" it will be wisest perhaps not to make any treaty.

M. Mosneron remarks "that the market of our islands is most advantageous for the United States." So much the more reason, replies Clav-

ière, to make the market of the islands more abundant in all things, by using the surest stimulus for all Frenchmen, free commerce. They will enjoy all of their own industry and none can equal them. The more abundant their markets, the more powerful our islands. The more powerful the less they will have to fear the prediction of Mosneron, who sees in the United States "the conquerors of all the western colonies of Europe," and predicts that by means of that great lever, all that part of the new world, the United States will displace without doubt, the pivot of the commerce of the world.

The commerce of the world has no pivot, comments Clavière, unless it is the earth's axis. Wherever men are found, commerce is found. It is greater or lesser according to the degree of civilization and liberty. If Mosneron believes that Europe will fall soon into barbarism, then the epoch when the United States will become the great center of commercial activity can not be far removed. As that is not likely, it is the more sensible plan for France to combine its commercial movements with its colonies, in such a manner that they become a powerful bond between it and the new world; and free commerce will be the most powerful of bonds.

Brissot and Clavière were, obviously, followers of Adam Smith. Beside the patent evidence of their utterances, J. B. Say, his great interpreter

on the Continent, acknowledged having received his first inspiration from a copy of Smith's work to which he had access as Clavière's secretary, and which the future minister of finances himself "studied frequently."⁵ The doctrines of Smith remained to the end the point of view from which they envisaged all economic questions arising in the Assemblies or in the Convention, and there seems but little reason to doubt that they imposed this point of view on the group of which they were leaders.

The varying fortunes of Ducher's program, especially of the Navigation Act, coincide closely with the changing status of the Girondist group. It is indeed vain to seek in the Constituent Assembly illustration of the Girondist hostility to exclusive legislation, inasmuch as the group can scarcely be said to have a distinct entity before Brissot and Clavière attained political leadership in the Legislative Assembly. Nevertheless, it is of significance that Clavière condemned the exclusion of foreign-built vessels. According to Gouverneur Morris, it was the "aristocrats"—that is to say, the moderates—who promoted the tobacco act of March 1-4, 1791.⁶ Brissot, on the other hand, favored the free cultivation of tobacco, and importation free of duty or with low duties.⁷

⁵ Gide et Rist, *Histoire des doctrines économiques*, p. 126.

⁶ *Diary and Letters*, I, 381; see also *Memoirs of Lafayette*, II, 315.

⁷ Ellery, *Brissot de Warville*, p. 154.

The comment of Delattre in his report on the proposed navigation act needs to be mentioned: it was to the "men of the systems," the theorists, as opposed to the practical men of affairs, that the opposition to protective measures and the delay in passing such acts as the tariff, the tobacco act of March 1, 1791, and the act excluding foreign-built vessels had been due. To these "men of the systems" the Girondist leaders, particularly Brissot and Clavière, were the direct heirs.

The history of the economic question in the Legislative Assembly controlled by these leaders and their party illustrates this heirship. The Navigation Act itself, although commended to the Legislature by the formal action of the Constituent's committee of agriculture and commerce, received scant attention, lying unnoticed until March, and then was only referred for consideration. The battle between protectionist and free-trader was waged, for the most part, over the question of the free ports, the strongly protectionist committee of commerce, under the chairmanship of Mosneron, advocating the abolition of the franchises and the inclusion of the free ports within the restrictions of the national customs law, while the free-trade committee of marine which had been joined to the committee of commerce for the consideration of this question, advocated the abolition of the customs system and freedom for all the ports. We

have seen with what difficulty Mosneron retained the strategic offensive for his measure,⁸ and that actually the Legislature gave way to the Convention without having accomplished any economic changes of importance. In all this, Brissot and Clavière, busy with the manoeuvres of practical politics, had little if anything to do; the fact remains that the Legislative Assembly which they controlled was not favorable to the development of the restrictive program.

In the Convention, the anti-mercantilist character of the Girondists comes out much more clearly. It was not until England entered the war that it was possible to achieve the first great step in Ducher's program, the abrogation of the treaty of 1786. Even this step was taken only as a consequence of the war, and the same pretext served to justify the abandonment of two important elements of the restrictive system. The address of the Convention to the United States, adopted December 22, 1792, on the motion of the Girondist Gaudet, had "glanced blindly at commercial arrangements"⁹ which should do away with the policy of exclusion in the colonies.¹⁰ On February 19, 1793, on the motion of the Girondist chairman on the colonial committee, Boyer-Fonfrède, the admission of the Americans to the colonies was

⁸ See above, Part III, chap. 3.

⁹ Jefferson to Washington, Aug. 22, 1793. *Writings*, VI, 395.

¹⁰ *Moniteur*, Dec. 22, 1792.

adopted in principle. On January 31, 1793, the prohibition of the importation of foreign-built ships, which Clavière had deplored, was suspended.¹¹ Genet was even instructed to propose as an object of the alliance between France and the United States, the punishment of "the powers which still hold to an exclusive colonial and commercial system by declaring that the vessels of such powers will not be received in the ports of the two contracting nations."¹²

On the other hand, when the more vigorous elements got control of the Convention through the establishment of the Committee of Public Safety, the Navigation Act began to make progress. On May 20, 1793, Bourdon de l'Oise induced the Convention to direct the preparation of a navigation act. The status of Ducher was firmly established by the creation of the "Bureau diplomatique et commercial." On May 29, Barère in his report on the State of France, formally announced the Navigation Act and the abolition of customs barriers between the mother country and the colonies, another important element of Ducher's program,¹³ as integral parts of the program of the committee. Within a month after the disappearance of the Girondist leaders, the Navigation Act was formally presented to the Convention in the report of Marec (July 3, 1793). Yet it is to be noted that

¹¹ Schmidt, *Réceuil des textes*, p. 136.

¹² Turner, *Correspondence of French Ministers*, p. 204.

¹³ See below pages 232, 237.

although Girondist leadership had disappeared, it was still possible to oppose successfully the Committee of Public Safety. Delaunay d'Angers, between whom and Clavière there was some political sympathy,¹⁴ was still able to prevent the passage of the act. It was not until the influence of Danton and Barère, combined with the military disasters of the summer of 1793, had set the Committee of Public Safety on the road to the supremacy attained by the establishment of the Revolutionary government in October, 1793, that Ducher's program could be realized in legislation. This process may be considered fairly begun by Danton's motion of August 1, 1793, to make the Executive Council simply the agents of the Committee. The motion was defeated, but the committee continued to increase in power. As we have noted, it was as a stage in this development that the passage of Ducher's colonial act and of the Navigation Act was secured, on September 11 and 21, 1793, respectively. It was after the establishment of the Revolutionary Government that the Customs Commission, through which Ducher's administrative reforms were effected, was established.¹⁵

¹⁴ E. Clavière à l'Assemblée Nationale sur les finances, Paris, 15 décembre, 1791. This was a reply to an attack by Condorcet, published in the *Chronique de Paris*, on Delaunay's speech of December 13, 1791, advocating the issuance of more assignats.

¹⁵ For the facts here discussed, see above, Part II, and Part III, chap. 1.

From this brief resumé of the history of Ducher's program it is obvious that it can be asserted with safety that the Girondist party was anti-mercantilist and that the Mountain was mercantilist—that the Girondists were consistently opposed to Ducher's program and that it was an essential and important part of the program of the Committee of Public Safety. The larger question, whether the economic issue determined the alignment of parties must be left in suspense, pending a more thorough analysis of the economic phases of the Revolution. The facts here presented seem to indicate, with some degree of positiveness, that back of the lip-worship of "liberty, equality and fraternity," back of the charges of monarchism and federalism, economic interests were finding practical expression in party divisions. What the measure and limits of the influence of these interests were, however, cannot be answered until a general account of the economic issues in the Assemblies and in the Convention has been written.

CHAPTER II

Les Deux Hemisphères: BACKGROUND

The general question of Ducher's relation to the Girondists has another, more personal aspect, which connects itself with the subsistence problem and the question of the proper utilization of the American debt, and comes to a focus in Ducher's pamphlet, *Les Deux Hemisphères*, published in October, 1793, in which he attacked Lebrun and Clavière for their part in the handling of these questions.

The subsistence question as an element of "practical politics" during the Revolution has been almost wholly overlooked. The purchase of supplies offered opportunities of the most tempting character to the banker and speculator, which men like Clavière and Brissot, to whom political control was a convenient tool for attaining financial ends, were not slow to seize.

The subsistence question is closely connected with the question of the debt of the United States to France, contracted during the Revolutionary War. This question also has been ignored as an element of French politics—in both the higher and lower sense of that word—although the American phase has been so exhaustively treated. The phase of the question with which we are here con-

cerned belongs chiefly to the last days of the Ancient Régime and the Revolutionary period down to the mission of Genet and the overthrow of the Girondists.

At the end of the war, little hope was entertained by the French government that the debt of the United States would be paid either promptly or in full. The total lack of financial strength exhibited by the new confederacy and the apparent absence of the necessary elements upon which to base any considerable financial transaction made it impracticable to consider payment of the debt as a practical object of diplomacy, or to do more than to recall it to the attention of Congress in order that that body should not come to believe that it had been lost from view.¹ Nevertheless various projects for redeeming the debt were evolved by subordinate officials of the French government.

The method most available seemed to be commutation. Ducher in his consular reports never wearied in insisting upon the practicability of this method. In his consular report of May 11, 1786, he declared that "France could be paid in provisions and naval stores and only in that way: the money simply did not exist." When the new constitution was under consideration he wrote, "the new congress will not have more than enough spe-

¹ Instructions to De Moustier, Oct. 10, 1787. *American Historical Review*, VIII, 712.

cie to meet current expenses. The interest and portion of the foreign debt due exceeds the amount of specie actually in the states," and insists again on the practicability and desirability of commutation in kind.² De Moustier, in a memoir on the debt,³ recommended a similar method—to authorize some agent to issue drafts on Congress annually for such amounts as fell due and to use them in the purchase of naval stores and provisions in the American market.

Several attempts were made to negotiate on this basis with individual states. Ducher won for his plan the support of Governor Sullivan of New Hampshire, who induced the Legislature to make provision for the collection of naval stores and other such material for the purpose.⁴ The effectiveness of the plan was much reduced, however, by making the payments in kind optional, and it came to nothing. South Carolina had been induced to pay its share of the debt in four installments, but took no steps to carry out its agreement in spite of the solicitations of Petry, the vice-consul at Charleston.⁵

In addition to these attempts on the part of the French government to deal with Congress and

² Consular report, Wilmington, No. 9, Feb. 6, 1788. The same ideas are set forth in his No. 16 from Portsmouth, Nov. 6, 1786.

³ *Mémoire sur la Dette du Congress envers le Roi et sur les moyens d'en faciliter le remboursement.* *Arch. Aff. Étr.*, Mem. et Doc. États-Unis, 7, Document No. 158.

⁴ Consular report, Portsmouth, No. 12, Sept. 27, 1786.

⁵ Ducher, Consular report, Wilmington, No. 24, Oct. 30, 1788.

with the States, several schemes were formed by varying groups of bankers, usually international in character, including French, Dutch and American bankers. The plan of these schemes was to buy the American debt outright, paying in money or in French stocks, and using it for the purchase of American public lands or of supplies. During the Ministry of Calonne, a Dutch company had undertaken the negotiation, but had encountered a decided refusal on the part of Calonne.⁶ It was in connection with this scheme that Brissot had made his famous journey to the United States; it was as an important move in the game that he left the United States suddenly and secretly just as the events of 1789 ushered in the Revolution. Clavière, too, was one of the important subordinates of this combination, and it was as a sort of prospectus for the colonization schemes which it was proposed to base on the purchase of American lands that Brissot wrote his *Nouveau Voyage aux États-Unis*.⁷

After Brissot's return to France, however, he and Clavière were crowded out, together with

⁶ Jefferson, *Writings* (Ford ed.) V, 287.

⁷ For most of the facts and documents of this very extensive scheme, see Ellery, *Brissot*, passim and especially the appendix. Miss Ellery apparently fails to appreciate how completely Brissot's moves were dictated by secret business considerations, rather than by "the beginning of the Revolution and his hope of being useful to the cause of liberty" (p. 85). The interpretation of his departure as a move of the financial game is fully sustained by a document which she herself reproduces. (Craigie to Brissot, Jan. 24, 1789, Appendix A, p. 435.)

Craigie and Duer, two of the Americans interested, while Daniel Parker, another of the principals, formed a combination with Robert and Gouverneur Morris, the latter of whom was in London and Paris during 1789 engaged in a similar enterprise. Le Coulteux of Paris also associated himself with the Morrises, but Von Staphort and Stadninski, Dutch bankers who had been expected to participate in the original Craigie-Duer-Parker combination, took a hostile attitude and even wrote to Hamilton and Necker urging them not to agree. After much negotiation this difficulty was overcome and a definite offer was made to Necker in the name of Schweitzer, Jeanneret and Co., but without result.⁸

The Constituent Assembly, under the lead of Mirabeau, had also undertaken to solve the question of the debt. As early as July 6, 1789, Mirabeau had attacked Necker for failing to utilize fully the grain market of the United States to relieve the impending scarcity of grain and flour, but this charge was presently refuted by a letter presented by Mirabeau himself, proving that Necker had conscientiously attempted to encourage importation of grain and flour from the United States.⁹ Later in the year, as a part of the famous report of November 6, 1789, in which

⁸ *Diary and Letters of G. Morris*, I, 47, 95, 152, 180, 181, 198, 237, 239, 244, 307, 401.

⁹ *Memoirs of Lafayette*, II, 89, note.

he attempted to secure the adoption of ministerial responsibility in the English sense, he joined with his resolutions on that subject one (the first of the three) urging the negotiation of the American debt in supplies.¹⁰

During the Legislative Assembly, Clavière's interests seem to have been confined largely to manipulation of French paper—"cet infernal agiotage"—which he was fond of denouncing. Slight indications of his connection with provisional schemes and enterprises remain. His active agent was Bidermann, apparently quite a commonplace person, but sufficiently close to the inner circle of the Brissot-Clavière ring to be permitted to contribute to the *Chronique du Mois* a somewhat confused disquisition, "D'un Commerce national," which was full of references to Clavière as a "génie supérieur."¹¹ Bidermann was almost ruined when, in June, 1792, Clavière, with Roland and Servan, was dismissed from the ministry and thereby cut off from the public funds, which he had apparently been using for the benefit of himself and his satellites.¹² Clavière's downfall seems seriously to have affected his own financial standing. As soon as he was out of the ministry, a "cohorte infernal des agioteurs" attempted to drive him from the administration of the insur-

¹⁰ *Moniteur*, Nov. 6, 1789.

¹¹ *Chronique du Mois*, 1792.

¹² *Despatches of Earl Gower* (Browning), pp. 191-192.

ance company of which he was the head, demanding his accounts from the beginning of the organization. He managed to retain the support of a majority in a meeting of July 15, 1792, but the minority made so much trouble that nothing could be done, and he felt obliged to yield to the demand for the accounts.¹³

The restoration of the Girondin ministry to power after August 10, 1792, promptly led to a renewal of the negotiation regarding the use of the American debt for the aid of the distressed island of Santo Domingo. On August 29 Clavière and Monge met Morris at the Department of Foreign Affairs and asked him to enter into contract to furnish \$400,000 in America for the use of Santo Domingo. Morris promptly refused to treat on the ground that he had no authority to treat with the new government.¹⁴ Clavière was much vexed at the refusal, and a few days later Morris received from the Foreign Office an insulting letter, written by Brissot, which was designed to force recognition.¹⁵ Morris learned later that a private speculation was at the bottom of the proposal of Clavière and Monge: "this accounts for the wrath I excited by the un-

¹³ Clavière to Dumont, July 19, 1792. *Révue Historique de la Révolution française*, V, 13, 14.

¹⁴ *Diary and Letters*, I, 578-579.

¹⁵ Aug. 31, 1792. *Diary and Letters*, I, 581.

willingness on my part to jump over all bounds of my power and instructions.”¹⁶

In spite of this rebuff, the Provisional Government made another attempt to utilize the debt in the purchase of supplies. Roland as Minister of the Interior was charged with the duty of buying grain abroad, and proposed to Lebrun that Ternant, the French Minister in the United States, be instructed to propose to the Americans the shipment of grain to the amount of two million livres tournois, to be charged against the debt. This suggestion was so heartily welcomed by Lebrun that Roland decided to increase the order,¹⁷ but unfortunately for the project, Morris remained obdurate and it was necessary to abandon it.¹⁸ Roland found¹⁹ himself obliged to turn once more to the English market, where he purchased 72,000 setiers of grain.²⁰

It was in this juncture of affairs that Col. W. S. Smith, the son-in-law of John Adams and his secretary of legation at London, approached the Provisional Executive Council with a proposal that seemed to make it possible to carry out the plan of utilizing the American debt for the purchase of

¹⁶ Morris to Jefferson, Sept. 26 (?), 1792. *Diary and Letters*, I, 593.

¹⁷ Roland to Lebrun, Sept. 30, 1792.

¹⁸ Oct. 15, 1792.

¹⁹ *Arch. Aff. Étr.*, Corresp. Pol., États-Unis, 36: 395, 396, 414.

²⁰ *Arch. Nat.* AF II, 7. Report of Roland on the state of supplies, session of the Executive Council of October 13, 1792.

supplies without depending on diplomatic intercourse, hampered as it was by the delay of the United States in recognizing the new government. Smith's offer was simple and apparently ingenuous. He agreed, (1) to negotiate with the United States the payment of the whole debt, including the part not due, on the basis of 25 livres 10 sous for one guinea—that is to say, at par; (2) to buy supplies, grain and munitions of war in the United States “charging only the common commission and the extra expenses of the business”; (3) with the balance to establish a credit for the Executive Council with a London banker.²¹ The offer was referred to Clavière for examination and, upon his favorable report, was approved some time before November 7, 1792. On that day Clavière communicated this decision and certain orders in regard to the purchase of supplies to Smith,²² inclosing therewith formal approval of the price and conditions upon which Smith proposed to deliver fire-locks at Dunkirk.²³

At this point Ducher interrupted the progress of the Smith plan by a memoir which he presented to the Finance Committee. He had himself been

²¹ For the details of Smith's offer, see his letter to Genet, May 8, 1793. (Bibliography, page ; and Clavière, *Éclaircissements sur ce qui me concerne dans un écrit publié sous le titre, Des deux hémisphères, par A. G. J. Ducher.*

²² *Arch. Aff. Étr., Corresp. Pol., États-Unis, Suppl., 1:147.*

²³ “Report of Minister of Public Contributions on the Liquidation of the American Debt.” (Dec., 1792). *State Papers and Public Documents of the U. S.* (T. B. Waite, editor), I, 60-61.

interested in the question of the debt, as we have seen, and in the utilization of the American market as a source of supplies.²⁴ In September, 1792, while the Executive Council was planning to make purchases of grain in the United States, and later in England, Ducher protested against the whole policy of governmental interference in the grain trade.

In this article Ducher²⁵ called the attention of the Convention to the advantages of the United States as a grain market as compared with England, and indeed, with any of the European or African sources of supply. Europe as a whole, he asserted on the basis of "a report made to the cabinet of St. James," did not produce in ordinary years more than enough for its inhabitants. England, with its flourishing manufactures, its stock raising, and its distilleries, depended on the foreigner for bread. France in ordinary circumstances produced quite enough for home consumption and indeed, from ten to fifteen per cent more. But when famine did come, it was not to England that France ought to have recourse. England's harvests were never sufficient even for her own people. Necker had bought grain in England, and the grain dealers there had brought from the United States the grain they sent to France. In this way the English had enjoyed the freight and

²⁴ See "Les Deux Hemisphères," *Moniteur*, Nov. 18, 1793.

²⁵ *Moniteur*, Sept. 24, 1792.

the commission, and received specie for the grain for which they had paid with goods of English manufacture. Meanwhile French traders, unaware of Necker's purchases, bought grain in the United States at the high prices which resulted from English competition, only to find, when they brought it to France, that Necker was selling below cost the grain he had bought from the English, in that way rendering useless the premiums accorded to importations made independently. In Ducher's opinion, a policy of non-interference was preferable to such management. The ministers, the departments, the municipalities, instead of making purchases in foreign countries without reserving to French business men the profits of purchase and of shipping, ought to leave the grain trade to itself. He urged that three simple principles should be adopted with reference to the grain trade: (1) that the internal commerce in grain ought to be absolutely free; this was not yet entirely true, he pointed out, as between departments, as trade was not free where it did not have perfect security; (2) that importation of grain from abroad should be permitted at all times; (3) that exportation from France should be forbidden when the National Assembly should proclaim that the general average price, determined by the statements of prices in the principal markets of each district exceeded the general average price of labor. "These three laws," he declared, "will com-

prehend all the legislation necessary in regard to the foreign and internal commerce in grain."

The memoir which Ducher addressed to the Finance Committee did not, however, attack the Smith project for its probable effect on the grain market, but rather for the financial methods and results involved. It was designed to show that the financial ill-consequences of Smith's plan would be as great as the consequences of purchasing foreign exchange outright, that in fact it reduced to the same terms. According to Ducher, this was the worst of all financial mistakes: "Rien ne peut compenser ni diminuer les pertes de la trésorerie nationale qui achète ou reçoit en paiement des lettres sur l'étranger."²⁶

His argument, in brief, was this: All indirect payments, that is, payment made through an intermediate third party, are onerous either to the creditor or debtor. Only the services of friendship are gratuitous: the motive of commerce is *interest*. It was essential to examine the motives which actuated the offer of Col. Smith. What would be the mode of payment to Smith by the United States, so that he could pay the French debt and secure the discharge of the States? What could they give which France ought not to reject, or which it was not greatly to the interest of France to receive directly, without the mediation of London or Amsterdam bankers?

²⁶ The article was published some months later in the *Moniteur*, Aug. 2, 1793.

Only four methods could conceivably be used. He might be paid in specie; he might be given western lands; he might be paid in bonds to sell at Amsterdam; he might be paid in the products of the country. The first was out of the question, since scarcely enough money existed in the country to pay the ordinary expenses of the government. If he was paid in land, it would be in France that these lands would be sold and that immigrants would be secured, who would carry out four times as much specie as Smith would have turned in to the treasury by a credit opened at London. If he were paid in bonds of the United States they would presumably be sold at Amsterdam and paid for in letters of exchange salable at a great profit in Paris. If Smith received products of the country, France would likewise be the place of consumption and the French people would have to pay with usury the specie which he had put at the disposition of the national treasury in London.

“How long will France be treated by the bankers of London and Amsterdam as a minor is by a Jew? Will we never be sufficiently reasonable to transact our business ourselves, directly, and without intermediaries whose generosity equals the civic virtue of our banks that call themselves ‘patriotic’?”

According to Ducher, his memoir was partially effective in so far that it secured the disapproval of the Finance Committee. According to Clavi-

ère, on the other hand, Smith had left France without completing his arrangements and that therefore the negotiations were of no account. In view of the character of Clavière's letter to Smith of November 7, 1792, this assertion hardly seems valid. However that may be, the Executive Council decided instead to use Genet. His predecessor, Ternant, was already engaged in a negotiation to induce the United States to furnish grain, flour and salt meats in discharge of the debt.²⁷ This negotiation Genet was instructed to continue, basing himself on the ground that France was now in pressing need, occupied in the defense of her liberty and independence, as the United States had been defending theirs when this sum was lent to them, and to impress on the American government the advantage that would accrue to the American market by the purchase of supplies in such large quantities.²⁸ According to Ducher, Bidermann, Clavière's partner and the agent of the municipality of Paris, was involved in the scheme, and gave Genet a commission to buy 6,000 quintals of grain for the city.²⁹

That Ducher was not opposing this scheme at the time is indicated by the article which he published in the *Moniteur* of January 11, 1793, "La

²⁷ Turner, *Correspondence of the French Ministers*, page 206.

²⁸ *State Papers and Documents of the U. S.*, I, 64.

²⁹ *Les Deux Hémisphères*, *Moniteur*, Nov. 18, 1793.

France créancière des États-Unis d'Amérique." By quotation from his consular reports, he showed that he had long ago advocated the liquidation of the American debt by commutation in produce and supplies. In one report quoted,³⁰ he even advocated following the precedent of James I of England in regard to the debt of the United Provinces, which in 1617 had been discounted more than half. Such an offer the United States could not well refuse, especially since the producers would benefit by the increase in prices. To secure support for the proposal, it should be provided that supplies of each section should be accepted. In the decree which he proposed, he included a provision that all trade between the two countries should be carried in French or American vessels—another of the numerous occasions, in and out of season, which he seized to advance the principle of direct commerce. It is with the second article of his proposal, however, that we are here concerned: "The Executive Council is authorized to receive in the United States of America part or even the whole of the debt of the said States owed to France, in specie, letters of exchange on Europe, or raw materials or products grown or produced in the said States, at the price current in the said States. The national treasury is also author-

³⁰ Probably his No. 19 from Wilmington between July 10 and August 20, 1788. It does not exist among his papers in the Foreign Office Archives.

ized to draw the letters of exchange on the treasury of the said States, which after acceptance and payment, as also the receipts for specie, letters of exchange on Europe which shall have been paid, and American raw materials and products delivered in the said States, will be accepted on account for the discharge of the said debt." This is obviously inconsistent with his condemnation, in the memoir on the Smith project, of letters of exchange. It is also striking that this article is substantially identical in terms with the instructions to Genet which Ducher later attacked so bitterly.³¹

In his next article³² Ducher reverts to his original position, that the government ought not to accept letters of exchange drawn on foreign financial centers. This article is distinctly an attack on the Executive Council. He severely condemns the management of Roland and Bidermann, Clavière's partner, in the purchase of supplies, and advances the idea, not to be found in his previous articles, that governmental purchases ought to be made in the open market.³³ It was based on a table of the prices of grain in each of the departments in each of the first two weeks of December, 1792. The table showed variations from depart-

³¹ See below pages 237, 238.

³² "Résultat des prix-communs de blé-froment." *Moniteur*, Jan. 29, 1793.

³³ A fair copy of this article, apparently made in the department, is found among the papers of the Foreign Office. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, Suppl. (2 me serie), 13:98.

ment to department ranging from 20 livres 1 sou in Finisterre to 97 livres 18 sous in Hautes-Alpes, as well as considerable variations from the one week to the other. What were the causes of this remarkable irregularity? Ducher attributed it to the variations in the liberty and security of transport and in the price of specie between the departments of the coast, those of the frontiers, and those of the interior, and to purchases made by certain administrative bodies, by the firm of Bidermann, and by Roland. Bidermann and Roland worked at cross purposes. Bidermann was reproached, Ducher writes, with having imported grain from the Palatinate at the same time he was shipping French grain abroad. Roland even asserted that he had been obliged to supply places where Bidermann's purchases had caused a scarcity.

The administration was equally confused, he asserted, in its policy of purchasing abroad. They bought at London grain from Philadelphia. This meant, declared Ducher, two freights, two insurances, commission, and a profit to the English who received the grain in exchange for their merchandise. The price was apparently lower, but as a matter of fact, the 34 livres 13 sous which was paid for grain from England, was paid in écus, while the average price in the interior, 37 livres 13 sous, was paid in assignats, so that the apparently better price was really at least 33 per cent higher. At the same time the price of

French products was enhanced by the scarcity of money caused by Roland's purchases of specie and bills of exchange.

The policy of purchase in the open market in France, declared Ducher, would lead to the exportation of French goods to pay for the supplies imported, since the importer, seeking a means of payment, would find that merchandise had not increased in price as much as specie. French business men would get the freight, the insurance, and the other profits. In contrast with this, the actual manoeuvres of the Minister were impoverishing France by raising the price of specie, of exchange, and of grain.

Turning to Bidermann's plans, Ducher denounced his scheme to buy dollars to the extent of about 5,000,000 livres and to send them to Philadelphia together with a letter of credit on London to buy grain and flour. If purchases were to be made in the United States, it would be much better to pay for them in quittances which would be valid in the discharge of the debt of the States to France. To encourage direct payments in products, the French government ought to stop accepting foreign bills of exchange. This practice depressed American paper, he asserted, and led to profitable financial operations at the expense of the French money market.

This attack on Bidermann and the memoir in opposition to the Smith plan are of significance as

marking the beginning of the conflict between Ducher and Clavière that ended only with Clavière's death. Although the Minister was not mentioned by name, it was Clavière that Ducher was beating over the shoulders of his partner and lieutenant, Bidermann.

In the concluding paragraph of the article, Ducher re-stated his principle that the grain trade should be left to itself as much as possible. "Le ministre doit ses soirs à préparer les bases sur lesquelles le corps législatif peut permettre l'exportation à l'étranger ou mettre un droit sur l'importation de l'étranger." These bases, he declared, should be tables showing the state of the harvest, the population, wages, and the price of grain. For the purposes of these statements, the departments ought to be divided into three groups, according to their geographical position—departments of the coasts and frontiers, an intermediate line, and those of the center. "Avec les quatre états de chaque ligne, le prix commun de chacun, le prix commun général, on peut avec sagesse ouvrir ou fermer les barrières nationales, par terre et par mer, ou par mer ou terre seulement, par océan ou la Méditerranée: c'est la système commercial de l'Angleterre adapté à la France."³⁴

In summary, Ducher was advocating (1) freedom in the internal market and free importation;

³⁴ Cf. the opinions expressed in the Convention, November 29, 1792, especially those of Lequinio and St. Just.

(2) the control of exportation; (3) outright purchase of grain only in the French market; (4) free use of the American debt to purchase grain in the American market. In all this there was no fundamental opposition to the principles of Genet's instructions in regard to the purchase of grain. He did, however, condemn the use of letters of exchange on London and Amsterdam and the purchase of dollars.

In December, 1792, Genet started on his mission. Even before he reached the United States, Ternant had attempted to induce the American government to agree in principle to advances on the debt. The cabinet, while willing to advance a considerable sum by way of compensation for the delay resulting from the delay in recognizing the Provisional Government, deliberately avoided agreeing to the principle.³⁵

Meanwhile Smith, apparently regarding his negotiations with the Executive Council as complete, had been buying supplies and had already made numerous shipments to France. It was not until February 28, 1793, that he applied to the Secretary of the Treasury in regard to the essential part of his business, the proposal to change the form of the debt to France. He was met with a decided refusal. The Secretary of the Treasury was directed to "inform Mr. Smith that the government of the United States have made en-

³⁵ Jefferson, *Writings*, (Ford ed.) VI, 190, 199.

gaged payments to France to the extent which is at present consistent with their arrangements; and do not judge it advisable to take any measures on the subject of his application."³⁶ Nevertheless Smith seems to have continued the purchase of arms and supplies. According to information that came to Hammond, the British Minister, he was paid \$200,000 by the American government but this was probably a mistake.³⁷ Hammond protested against Smith's purchases of munitions as a violation of neutrality, but his protest was denied.³⁸ Finally Smith, whose business habits seem to have been quite dilatory, addressed himself to Ternant,³⁹ calling his attention to his negotiations of the previous October and November with the Executive Council and desiring to know what provision had been made for payment. Whether Smith was paid or not, does not appear from the evidence. He drops out of sight as an active factor in these peculiar complications.

Genet likewise failed in his attempt to secure the immediate discharge of the debt with supplies

³⁶ Cabinet opinion on the French Debt, March 2, 1793. Jefferson's *Writings*, (Ford ed.) VI, 193.

³⁷ Hammond to Grenville, March 7 and April 2, 1793. *Ms. Public Record Office*, F. O. 5.

³⁸ Jefferson to Ternant, May 15, 1793. *Writings* (Ford ed.), VI, 254, 255.

³⁹ Smith to the Minister plenipotentiary of the French Republic, May 8, 1793. *Arch. Aff. Étr.*, Corresp. pol., États-Unis., Suppl. (2me serie), vol. 13.

and provisions.⁴⁰ He then attempted to buy provisions with assignments of the debt, but Jefferson advised him that the plan was "too deeply interesting to the credit of the United States and too unpromising in the result to France to be eligible to yourself."⁴¹

As a result of Genet's unhappy career, the American government soon adopted an even more rigorous neutrality, refusing all advances even in cases where it was necessary to disappoint "the just expectations" of American citizens who held bills drawn against the payments on the debt.⁴²

⁴⁰ Jefferson to Genet, June 11, 1793. *Writings* (Ford. ed.), VI, 294.

⁴¹ Same to Same, June 19, 1793. *Writings*, VI, 313.

⁴² Jefferson to Genet, June 23, 1793. *Writings*, VI, 315. Hammond to Grenville, July 7, 1793. Public Record Office. F.O. 5:1.

CHAPTER III

Les Deux Hemisphères: THE INDICTMENT

To such a pass had the relations of France and the United States been brought by the Girondists when the revolution of May 31, 1793, swept away the party and destroyed the power of the Girondist ministry. Defenseless against their enemies, they invited attack from all sides. To the rising tide of denunciation, Ducher contributed several attacks on the ministers Lebrun and Clavière, who, at first "arrêtés non destitués," were soon imprisoned in the Conciergerie and replaced by others. According to Clavière,¹ Ducher's hostility was inspired by the disappointment of his hopes to be named minister to the United States, or at least consul-general, when Genet was named. Ducher had indeed written to Monge, the Minister of Marine, that "every law" gave him "the right to be considered for the most important posts before any newcomer in the consular service."² It is not necessary, however, to seek the explanation of Ducher's attacks in causes so personal. Ducher and Clavière had been opposed on questions of principle ever since Ducher attacked

¹ *Éclaircissements*, etc.; see below, page 239.

² Ducher to the Minister of Marine, December 31, 1792. *Arch. Aff. Étr.*, (unclassified.)

Clavière's petition of November 5, 1791, while Girondist control of the Legislature and of the Convention had barred the way for the achievement of Ducher's program. That Ducher should be aligned with the enemies of Clavière and Brissot was inevitable; that his personal disappointments intensified his hostility was accidental.

With the replacement of the Committee of General Defense by the Committee of Public Safety, in the spring of 1793, Ducher had cautiously begun to attack Clavière, by publishing in the *Moniteur* his reply to Clavière's *Petition* of November 5, 1791,³ although he was careful to avoid the use of Clavière's name. In August, when the article was reprinted in his *Acte de Navigation*, the necessity for caution was gone and Clavière's authorship of the petition was specified. At about this same time Ducher published, under the title "Agiotage officieux" the memoir which he had presented to the Finance Committee in November, 1792, against the approval of the Smith proposal.⁴

It is, however, with a pamphlet⁵ published by Ducher in October, 1793, in which he attacked Lebrun and Clavière specifically for their handling of the subsistence problem and of the rela-

³ For Ducher's controversy with Clavière over financial questions and his other financial writings, see chapter 3, below.

⁴ *Moniteur*, Aug. 2, 1793.

⁵ *Convention Nationale, Les Deux Hemisphères, par A. G. J. Ducher. Le 7 jour du 2e mois de l'an II.*

tions with the United States, that we are here concerned. The pamphlet seems to have been a calculated step in the plan to send Clavière and Lebrun, as the leaders of their party in the Convention had already been sent, to the guillotine. A special effort was made to secure for it the approval of the Convention, but in vain; particular authorization was refused on the ground that any committee could have printed anything that concerned its affairs.⁶ Nevertheless, it was published under the *imprimis* of the Convention; the *Moniteur*⁷ and Clavière⁸ state that it had been published by order of the Convention.⁹ In the preparation of *Les Deux Hemisphères*, Ducher was given access to official papers. He was able to quote from the despatches of Genet, from the severe admonition which had been addressed to him by the new Minister of Foreign Affairs on July 30, 1793,^{9a} and from Genet's estimate of "le vieux Washington qui diffère beaucoup de celui

⁶ *Arch. Parl.*, LXXVII, 708.

⁷ Nov. 18, 1793.

⁸ Clavière to the Executive Council, Nov. 11, 1793. *Arch. Nat.* AF II, 8.

⁹ Attention should be called to the fact that the *procès-verbal* of the Convention does not mention the work by title, but only as a "memoire relatif à la navigation et commerce des Français." It is possible, of course, that the record may refer to a memoir by some other person than Ducher, or to another of his works, but a somewhat extended search among the pamphlets of the period has failed to bring to light any other to which the item in the *procès-verbal* could refer.

^{9a} Cf. Turner, *Correspondence of the French Ministers*, *passim*, and especially pp. 228-230.

dont l'histoire a gravé le nom" and who "ne me pardonne point mes succès!"¹⁰

The first part of the pamphlet made Lebrun the scapegoat for all the follies of Genet, the second part made Clavière out to be guilty of all sorts of looseness, not to say criminal intent, in the attempts to negotiate the debt and the purchase of supplies.

The argument of *Les Deux Hemisphères* is not easy to reproduce. The method of the pamphlet is a fairly skilful combination of suspicion, innuendo and irony, which does not lend itself readily to specific analysis. Pitt, asserted Ducher, ever since 1783, had kept in his pay emissaries among the ministers, the court, in the assemblies, in the Convention, in the army, in the Executive Council. His great aims at present were to break down the new American constitution, revolutionize the West Indies, "counter-revolutionize" France. All of those aims would be served if the United States would depart from their neutrality and give him a pretext to attack them. Was not the minister of France in the United States serving those aims when he attempted to violate their neutrality and force them into the general war? While the government of the United States was trying to preserve its neutrality, much more useful to France than any military assistance it could render, and fulfilling to the letter the obligations

¹⁰ Cf. *Les Deux Hemisphères* and Genet to Lebrun, June 19, 1793, Turner, *Correspondence*, p. 217.

of its treaty, the Girondist government and its minister were denouncing the President. Was the minister of France at Philadelphia trying to serve Pitt's purposes?

The next point of Girondin policy that Ducher attacked was the opening of the colonies to the United States. The colonial question had for some time been connected with the general problem of Franco-American relations, especially the American debt. As early as November 12, 1791, a plan to utilize the debt for the benefit of Santo Domingo was in existence.¹¹ The attempt of Clavière and Monge to induce Morris to contract to supply \$400,000 had for its object the assistance of that unhappy island.¹² In the address to the President of the United States, adopted on motion of Guadet on December 22, 1792, the Convention declared that "le temps n'est pas loin où la saine politique posera les bases du commerce, non sur des intérêts exclusifs, mais sur les intérêts combinés de tous et sur la nature des choses."¹³ This liberal attitude was even expressed in a formal decree by the Convention. On February 19, 1793, Boyer-Fonfrède, the Girondist chairman of the Colonial Committee, with the approval of the Committee of General Defense, proposed to the Convention a measure authorizing the ad-

¹¹ *Diary and Letters of G. Morris*, I, 480.

¹² See above page 211.

¹³ *Moniteur*, Dec. 23, 1792.

mission of American vessels in the ports of the West India colonies, and directing the Executive Council to negotiate with the United States on the subject. The measure was passed, and the Executive Council instructed Genet to use the offer of this privilege as a means of securing greater definition in the provisions of the treaty of 1778 by which the two powers mutually guaranteed their possessions in the western hemisphere. To this was joined an extraordinary proposal to punish "les puissances qui tiennent encore à un système colonial et commercial exclusif en déclarant que les vaisseaux de ces puissances ne seront point reçus dans les ports des deux nations contractantes."¹⁴ The American cabinet, however, was reluctant to take up either subject and Genet was put off from day to day until his brief career was run.¹⁵

To this whole program, Ducher was diametrically opposed. From the publication of his *Analyse* in 1790, he had consistently advocated the contrary policy, the inclusion of the colonies within the "*mur patriotique*" of the national tariff, and the abolition of barriers between the colonies and the home country, as they had been abolished between the various parts of continental France.¹⁶ In one of the longest and most carefully wrought

¹⁴ Turner, *Correspondence of the French Ministers*, pp. 204, 209.

¹⁵ Jefferson to Morris, Aug. 23, 1793. *Writings*, VI, 396.

¹⁶ See the article "Tarifs," an excerpt from the *Analyse*, reprinted in his *Acte de Navigation*. *Arch. Parl.*, LXXII, 404.

of his articles, Ducher developed this idea more fully.¹⁷ The imposition of duties on the commerce between France and her colonies, when the commerce between the departments in France was entirely free and unrestricted, he declared, was an injustice of which one or the other part of the Republic, or even both, had cause to complain. "It is an infraction of the principle of unity which is the base of our constitution. . . . It will be politically and commercially absurd to permit a separating wall between members of the same family to subsist any longer. All the relations between them, between sections of the same body politic, should be as unhampered as the circulation of the blood." France had an immense advantage in her colonial possessions, he pointed out. The French part of St. Domingo alone was worth more than all the English possessions, and the French islands as a whole were worth more than those of all European nations combined. The existing restrictions meant only that this advantage was lost by the diversion of trade through smuggling and evasions to the colonies of other nations and to the American ports. The abolition of the barriers would mean a stimulation of the commerce with France to a degree that the employes of the *ci-devant* Farmers-general [the *régisseurs des douanes*] have not considered. To

¹⁷ "Suppression des barrières entre la France et ses colonies." *Moniteur*, Nov. 4, 1792.

secure this advantage, however, it was necessary to arrange the tariff not with a view to revenue, but to the benefit of commerce and on the basis of a full knowledge of trade movements and the legislation of other powers. The loss of revenue, Ducher claimed, could be compensated for by much-needed economy in the customs administration.

The importance of this measure in Ducher's general program is hinted at in two other articles. In an analysis of the policy of Pitt, he writes, "Tel est le machiavelisme de Pitt : conjurer les rois qu'il divisera toujours par le système *d'équilibre* entre les *puissances* de l'Europe, y fomenteur la guerre pour emporter à son profit *l'équilibre du commerce*, c'est là le plan d'attaque du plus dangereux de nos ennemis. Celui de notre défense doit être l'union, le respect pour les lois, la *franchise absolue du commerce, sous pavillon français, entre la France, ses colonies et comptoirs*; dans nos douanes extérieures, nous ne percevons des droits que sur des bâtiments et marchandises des pavillons et industrie de l'étranger."¹⁸ In another article, portraying the happy consequences to be expected from the adoption of a navigation act, he concludes, "La république française, sans aucune taxe sur l'industrie, la consommation, ni droits entre elle et ses colonies, ayant dans ses

¹⁸ Article, "Pitt," *Moniteur*, April 11, 1793. The italics are Ducher's.

douanes extérieures un tarif modéré pour les objets étrangers, deviendra le temple du commerce et de la liberté du monde.”¹⁹ In February, 1793, when he appeared so often before the Committee of General Defense, he presented his views on the colonies. They were referred to Boyer-Fonfrède, who was at the time engaged in the preparation of the measure which threw open the colonies to the Americans, but, of course, were entirely without influence, since Boyer-Fonfrède was proceeding on a directly opposite principle.²⁰ “Fonfrède, les autres Brissotins, Clavière et les ci-devant régisseurs des douanes,” wrote Ducher a year later, “ont combattu longtemps la suppression des droits entre la France et ses colonies.”²¹

When the Committee of Public Safety was formed, however, and Barère began to assume the position of legislative leadership he maintained until after 9 Thermidor, Ducher’s proposal in regard to the colonies, like the Navigation Act, came at once to the fore. In that same famous report of May 29 on the State of France, in which Barère first urged the adoption of the Navigation Act, he

¹⁹ Article, “Anglais en Russie,” *Moniteur*, May 12, 1793. It is obvious that we have here a doctrine that can not be classed as pure mercantilism. In the question of the colonies, Ducher was actuated apparently by more purely political considerations, basing himself on the principle of unity which he later expressed so clearly in his arguments for the abolition of the free ports. See above, Part III, chap. 3.

²⁰ Aulard, *Actes du Comité de Salut Public*, II, 118.

²¹ *Moniteur*, Apr. 11, 1794.

also urged Ducher's proposal to abolish the barriers between France and her colonies.²² But like the Navigation Act, this proposal also had to wait until the new forces controlling the Convention had organized and perfected their power. On September 11, 1793, ten days before the Navigation Act, Barère presented it to the Convention in a speech which was nothing more or less than a summary of Ducher's article of November 4, 1792. The operation of the proposed decree did not extend to the trading posts and factories, as Ducher had urged, but included all of the colonies, the Ile de France, Bourbon and Mozambique, as well as the American colonies. Article I suppressed all duties on goods and products of the growth and production of the colonies, sent to France, and Article II, all duties on importation and consumption of such goods in France. Article III provided that existing duties should be collected upon exportation from France on foreign vessels, while Article IV left the regulation of foreign commerce with the colonies to a later decree.²³ Some attempt was made to secure delay for longer consideration of the measure on the ground of its extreme importance, but the insistence of Barère and Danton secured immediate action and the passage of the act.²⁴

²² *Arch. Parl.*, LXV, 576.

²³ *Moniteur*, Sept. 14, 1793.

²⁴ *Arch. Parl.*, LXXIII, 690.

Such was the background of Ducher's attack on the colonial policy of the Girondins in "Les Deux Hémisphères." Equally reckless of his country's good, he declared, was Lebrun's offer to the United States of entire liberty of commerce in the French islands, on condition that powers not granting similar privileges should be excluded from the ports of the two contracting powers. Such an arrangement would be one of the greatest obstacles to peace in Europe and send the flame of war over the new world. Furthermore the opening of the colonies to the Americans would mean ultimately the exclusion of Frenchmen. The colonies would be "Anglo-Américanisées" in all but language. "Such a treason is not more infamous than that of Toulon, but its effects would be irreparable." What is such a proposal, he asks, but an incentive to counter-revolution in the ports and manufacturing towns of France?

Then Ducher turns to the attack on Clavière. This betrayal of French interests was to be financed at the expense of France.

"What renders this *tour de force* still more astonishing," he wrote, "is that the cost of this political manoeuvre was to be paid in part with the debt of the United States to France. Here we see one of those incomparable operations on account of whose merit Mirabeau called Clavière his master in finance: it is the same Clavière." Touching briefly upon Clavière's long-continued

interest in the debt, his connection with Bidermann, with the malodorous American land speculations, with the "disinterested" Col. Smith, he pointed out that Genet had been given almost unlimited authority to dispose of the debt, to transform or transfer it as he saw fit, and to draw indefinitely on Paris by means of the ruinous letters of exchange. "In these powers, I recognize Clavière. I see speculation in notes and bonds of the state, loss of exchange, depreciation of assignats; no limitation of expenses, or of letters of exchange; the surrender of a credit that would probably fall into the hands of Pitt's agents."

Such unlimited powers, so contrary to French interest, Ducher pointed out, had been granted without a decree of the Convention. If the American government had not prevented the exercise of these powers, France might have lost her credit and found herself debtor instead, and deprived of the advantages which arose from the neutrality of the United States. "Were the laws sunk in a slumber so profound," he asked, "that such enormous crimes must go unpunished? Must the people's anger supply the place of justice? A sentinel has no right to the respect of his regiment except as he prevents surprise by the enemy. He is inviolate only if he is vigilant and faithful."²⁵

²⁵ For a completely different interpretation of *Les Deux Hémisphères*, see Paul Mantoux, "Le Comité de Salut Public et la mission de Genet aux États Unis," in *Revue d'Histoire moderne et contemporaine*, XIII, 5-35. M. Mantoux tries to show that *Les*

Ducher's attack did not come to the attention of Clavière until two weeks later, when it was communicated to him by "one of the purest and most incorruptible of patriots." Recognizing the gravity of the charges which the pamphlet contained, he addressed at once to the Executive Council a letter explaining his connection with the arrangements made with W. S. Smith and requesting that a copy of his report to the Council and of the instructions to Genet be sent to him for the purpose of setting forth his story of the affair.²⁶

On the basis of these, Clavière published a reply to Ducher, addressed to the Convention, entitled *Éclaircissements sur ce qui me concerne dans un écrit—publié sous le titre: Les deux Hemisphères, par A. G. J. Ducher.*

Attacking first Ducher's motives, he declared that Ducher was actuated by a desire to be himself ambassador to the United States, or at least consul-general—an ambition which it was impossible for him to attain while Lebrun and the Girondins were in power. He had not found Clavière pliant to his purposes for two reasons: being neither minister of Foreign Affairs nor of the Navy, he

Deux Hemisphères was written to prepare public opinion for the recall of Genet. He does not seem to be aware of the fact that Clavière regarded it as directed specifically against himself and so answered it. He also accepts at its face value the expression, "Imprimée par ordre de la Convention," and uses it to interpret the attitude of that body.

²⁶ *Arch. Nat.*, AF II, 8, pièce 373.

did not know Ducher, and secondly, the purchases of subsistences and munitions of war, with which Ducher desired to be entrusted, was not in his charge, and he had always avoided entangling himself with *intrigants* attracted by the necessities of the state, as vultures by carcasses.

When he took up the accusations in detail, Clavière missed entirely the ironic force of Ducher's philippic. In reply to the charge that he had acted as an ally of Pitt, he pointed out that he had been denouncing Pitt long before Ducher appeared in the lists against him, but had not believed it necessary to seek Pitt's accomplices in "suppositions so absurd that they raise doubts as to the good faith of Ducher, that strange publicist."

Similarly, Clavière missed the point of Ducher's jibe at the "disinterested" services of Col. Smith. He quotes as the first item of Ducher's list of charges "that in connection with the French claims against the United States, *Col. Smith had offered the most disinterested services*. But he does not say that these services were accepted and that it was the fault of Smith if his proposal was not carried into effect." What Ducher had charged was that Smith's offer was accepted, that it was an improper offer to accept, and that he had prevented its execution by his memoir to the Finance Committee.

The Smith project having fallen through, the Executive Council, Clavière went on to explain,

proceeded to a scheme by which Genet was to take paper money or bonds, or to use instruments of exchange to buy grain in Philadelphia. As for Ducher's charge "aucune fixation de dépenses ni des lettres de change," they could not be fixed beforehand. At the same time Clavière averred that it was not true, as Ducher had claimed, that Genet was given permission to make such delegation of the French claims as he thought convenient. No such authorization existed. Yet it is obvious from his instructions and from his own letters that Genet felt himself free to act on his own discretion.²⁷

As a whole, the reply of Clavière to Ducher's specific charges was very weak, and leaves the impression that the indictment was essentially correct—that the Girondin government, and Lebrun and Clavière in particular, had not acted as faithful sentinels, but had been guilty at least of shameful looseness in the transactions of government. We are not here concerned with the righteousness or correctness of the punishment meted out to Lebrun on the guillotine, which Clavière escaped by suicide, but in a situation like that of France in 1793, when blunders were crimes and weakness was treason, the two ministers were not the least deserving of their fate.

Of great significance in regard to the relation of the economic question to the party conflict are

²⁷ Turner, *Correspondence of the French Ministers*, p. 257.

the final paragraphs of Clavière's reply to Ducher. He returns here to the divergent fundamental principles of government which he and Ducher respectively represent, and stands on much firmer ground. He demands that Ducher should also be judged on the basis of *Les Deux Hemisphères*. "It will be seen," he writes, "that our social system, founded on liberty and equality, is absolutely betrayed: it is betraying it to wish to persuade a great nation to preserve the prohibitive régime and its arch-feudal system of colonial government. Once more I ask that his doctrine be weighed in the balance of the principles of the Revolution and that of the Revolutionary customs and maxims; that it be compared with what I have written and that it be decided on that basis whether Ducher or I merit the accusation of having betrayed the interests of the French people."

Clavière was appealing a question that had already been decided against him by the terrible march of events; but for our purpose here, it is of the highest importance that he recognized the economic issue as fundamental to his fate and that of his party. The party struggle of the Mountain and the Gironde was the struggle between mercantilist and anti-mercantilist, between protectionist and free-trader, between nationalist and humanitarian, which has characterized the history of the century and a quarter since his unhappy end.

One of the most remarkable of Ducher's charges against the Girondists was the accusation

that they had stood in the way of the abolition of slavery in the colonies and that they had favored the slave trade. Such a charge against Brissot and Clavière, the founders of the *Société des Amis des Noirs*, and its active leaders, seems at first glance too ridiculous even to need refutation. The *Amis des Noirs* had from the beginning avowed a sincere desire for the ultimate abolition of slavery. They had labored unceasingly to secure from the National Assembly the prohibition of the slave-trade. They had secured the admission of the mulatto population to full civil rights. "Brissot was fairly carried off his feet at the success of this measure," writes his latest biographer,²⁸ "and in an editorial in the *Patriote Français*, gave vent to a perfect pæan of joy."

These apparently whole-souled enemies of slavery Ducher accused, not only of having failed to abolish it, but of having positively befriended the slave trade. It was in the first article of his *Acte de Navigation, Seconde Partie*, published in Germinal An II, five months after the suicide of Clavière and the execution of Lebrun, that Ducher made this extraordinary indictment. Addressing himself to "Blancs, jaunes, et noirs," he reviewed the acts of the Girondist ministry in connection with the slave trade. After 1789, he points out, the bounty on slaves had not been paid until in February 1793 it was restored by a trick. The

²⁸ Ellery, *Brissot*, p. 211.

Minister of the Interior was authorized to pay all bounties due, and under cover of that authorization, between March 6 and July 15, 1793, nearly two million francs had been paid for slaves imported between November 22, 1789, and March, 1793. With the downfall of the Girondists the payments ceased, and on September 19, 1793, another decree authorizing the payment of back bounties expressly excepted those for the slave trade. "It was in the days of Clavière and Brissot," wrote Ducher, "that the decree of February 13 was issued; it was they who authorized by their connivance the payment of this bounty. . . . They proclaimed themselves 'friends of the negro': meanwhile they did not desire the abolition of slavery." If they had been true friends of the blacks, he asserted, they would have stopped the bounties and the importations and prepared to substitute wage labor for slavery. "It was nothing short of enacting slavery to give rights of citizenship only to mulattoes and to permit the slave trade and the bounties to continue. Such a policy meant a civil war between whites, mulattoes and blacks that opened the way to Pitt to secure our colonies."

Ducher might have made his case even stronger. He might have pointed out that the Convention on July 27, 1793, almost immediately after the Girondist leadership had been overthrown, passed a decree which explicitly suppressed all the boun-

ties on the slave trade. He might have pointed out, if he had known it, the enslavement of Lafayette's freedmen after August 10, 1792, by the Girondist government. "Lafayette in 1785 had bought for 140,000 livres some negroes and some land to work out a scheme of gradual emancipation. The revolution of August 10, the flight of Lafayette and the confiscation of his estate put an end to the enterprise, and although Brissot had received from Madame Lafayette the most noble and touching appeal in favor of these slaves bought for emancipation, the Girondists carried party spirit to the point of selling as slaves all these unfortunate protégés of the fallen general."²⁹

Here again in a sense the accusations of Ducher against the Girondists seem to have some justification in fact. Perhaps it would be impossible to believe that the leaders of the Girondists would have opposed, openly at least, the abolition of slavery. It can scarcely be questioned, however, in view of the facts presented, that considerations of some sort, public or private, had dulled the pristine ardor of the Girondist leaders in the conflict against the slave trade. "The decree which so moved Brissot [that of March 24, 1792, giving civil rights to the mulattoes] was the last colonial legislation of importance during his career,"

²⁹ *Memoirs of Lafayette*, II, 233.

writes his biographer again,⁸⁰ “but the spirit of his measures was followed out, two years later, by a decree abolishing slavery. . . . That the *Amis des Noirs* had any part in this subsequent legislation is not proved by any records known to the writer.” What could have been the motive of this apparent neglect on the part of Brissot of the unachieved part of his program, the abolition of the slave trade, when he was the leader of a compact group in the National Convention, when conditions were much more favorable to success than when he and his friends labored so earnestly and so long for the civil rights of the mulattoes? What considerations could have induced Brissot and Clavière to permit without objection the subsidizing of the trade in slaves which it had been the great object of their earlier political career to abolish as contrary to the rights of humanity and to the real interests of the colonies? Evidence does not suffice for more than a surmise: did the private speculation that was at the bottom of Clavière’s attempt to get funds from Morris for the relief of Santo Domingo and Brissot’s insulting letter to Morris when he refused to treat, have any bearing on the revised attitude of the Girondist leaders towards the slave trade?

Ducher himself seems to have had some connection, although a slight one, with the abolition of slavery. On February 4, 1794, Dufahy, one

⁸⁰ Ellery, *Brissot*, p. 212.

of the newly arrived deputies from Santo Domingo, had addressed the Convention, apparently with great effect. Amid the tremendous enthusiasm evoked by the address the abolition of slavery was proposed and passed. It was then moved that the Minister of Marine should be instructed to dispatch a packet-boat immediately with the news. To this Danton objected at once. In a rather ambiguous speech, he congratulated the Convention for having made liberty universal. His approval was unqualified, but after the enthusiastic words of his introduction, he urged upon the Convention a policy of caution. "La séance était trop peu nombreuse. La Convention vient de faire son devoir. Mais après avoir accordé le bienfait de la liberté, il faut que nous en soyons, pour ainsi dire, les modérateurs. Renvoyons au Comité de Salut Public et des Colonies, pour combiner les moyens de rendre ce décret utile à l'humanité, sans aucun danger pour elle. . . . Ne perdons point notre énergie, lançons nos frégates, soyons sûrs des bénédictions de l'univers et de la postérité, et décretons le renvoi des mesures à l'examen du Comité."³¹ This, of course, was in accordance with Danton's whole-hearted support of the Committee and his habitual insistence that everything be referred to it. His suggestion was accepted and the act referred.

It was not until two months later, and after the

³¹ Stephens, *Orators of the French Revolution*, II, pp. 281-282.

arrest of Danton, that the act was taken up again. It was then (April 1, 1794) reported again to the Convention and passed without any change from its original form. According to the minutes of the Convention, it was read by a secretary. According to the manuscript index of the proceedings of the Convention by Camus, now in the Archives Nationales, this second report came from the Customs Commission, with which Ducher was so intimately connected as author and defender of its proposals. If this indication, otherwise unsupported, is correct, it serves to explain Ducher's article, "Blancs, jaunes et noirs," the first of the collection under the title *Acte de Navigation, Seconde Partie*, published by authority of the Committee of Public Safety, from which several quotations have already been made in this chapter. The article seems to have been conceived as an address to the inhabitants of the colonies, exhorting them to receive the act of abolition in true republican spirit. It is of interest, however, principally as an indictment of the Girondists for their failure to abolish slavery and, as has been pointed out, for their whole record of opposition to Ducher's program. In effect, it is rather an appeal to public opinion in France than an explanation of the act of the Convention to the "blancs, jaunes et noirs" of the colonies. The scanty evidence of the index of Camus and the article of Ducher points clearly, if not very definitely, to some par-

icipation of Ducher in the development of the act of abolition.

Ducher's indictment of the Girondist leaders is the most complete and consistent contemporary statement of the lines of cleavage between the Mountain and the Gironde. It is a partisan statement and, as such, is not a fair and balanced presentation of the achievements and the failures of the Girondists. Ducher's generalizations were the current absurdities; like the rest of his contemporaries he accused the Girondists of federalism, or monarchism, of friendship with Pitt. His specific allegations, on the other hand, have a very sound basis in fact. In view of his close connection with the great Committee of Public Safety, his utterances may be taken as an adequate index of the elements of Girondist policy which their enemies regarded as most objectionable and open to attack. Furthermore, the close implication of the progress of Ducher's program with the attainment of supreme power by the Committee of Public Safety mark it as fundamental to the program of the Mountain.

PART V

DUCHER AND THE MONEY QUESTION

The story of Ducher's activities as a financial writer belongs to the history of lost causes, upon which the muse looks so indifferently. It is necessary therefore to treat his twelve articles on the financial questions of the day in somewhat summary fashion. Ducher was a consistent and able, though unsuccessful, advocate of sound financial principles. Nearly a fourth of his articles in the *Moniteur* are devoted to financial subjects. For the most part he attempted to apply to the problems of France the results of American experience with loose financial practice, as he had observed them in the course of his consular service.

In its beginnings and in its earlier phases, his campaign for sound finance was closely related to his opposition to Clavière. "Les mêmes hommes," he wrote, in that general indictment of the Girondist policy which has already been quoted,¹ "n'ont pas voulu rembourser la dette publique, cet ennemi de l'agriculture, du commerce, de la liberté et de l'égalité dans les démocraties, la dette publique, le fort appui et le destructeur révolutionnaire des trônes." Ducher's first memoir on the

¹ Above page 194.

financial question was a reply to the famous petition of Clavière to the Legislative Assembly.

In November, 1791, when the Legislative Assembly was deliberating over the issuance of 5 million francs of assignats redeemable by purchase of national land, Clavière was engaged² in putting the finishing touches on his *Réflexions sur les formes et les principes auxquels une nation libre doit l'administration des finances*. Anxious that his work should have its influence upon the policy of the Legislative Assembly, he addressed to it his "Petition" of Nov. 5, 1791, in which he demands that the unrestricted repayment of the unfunded debt by the *Caisse extraordinaire*, which was being carried on "sans règle ni mesure," should be suspended until the total was known and until the reimbursements could be controlled by a regulation adapted to the circumstances of the nation.³ The basis of the currency, he declared, was the element of the financial structure which it was necessary to conserve with the greatest care. If it became apparent that there were even five or six hundred millions of assignats without security, all would be lost. The counter-revolution, he solemnly assured the Assembly, would at once raise its head, more audacious than ever. The depreciation of the assignats

² See Clavière to Dumont, Nov. 26, 1791, *Revue historique de la Révolution française*, V, 6.

³ *Arch. Parl.*, XXXIV, 642, et seq.

on the stock market was of no importance whatever to the patriotic statesman, being due wholly to the evil machinations of the wily speculators. "Le financier de l'État regarde avec dedain les ondulations de ce sable mouvement de la rue Vivienne, sans cesse agité par le souffle impur de la mauvaise foi."

This petition was the object of much ridicule by the pamphleteers. An anonymous brochure, under the title *Que des peines perdues!* exposed the obfuscation of thought to which Clavière was so pathetically liable.⁴ Ducher joined in the attacks upon Clavière's petition in a memoir entitled "Réponse à la pétition de Clavière," in which he made an effective use of his knowledge of the operation of unredeemable paper issues in the United States.⁵ The memoir was in the main, a clear restatement of Gresham's law in terms of the experience of the paper money craze in the

⁴ See also *Opinion de J. Cartier Douineau, député du Département d'Indre-et-Loire à l'Assemblée nationale sur la nouvelle émission d'assignats. . . et sur la pétition de M. Clavière.* (Paris n. d.) and *Lettre de M. Montesquiou-Fezensac à M. Clavière sur son ouvrage intitulé "De la conjuration contre les finances de l'état, et moyens à prendre pour en arrêter les effets."* 1 April, 1792. (Paris n. d.)

⁵ Although this memoir seems not to have appeared in print until April 23, 1793, the date is given by Ducher himself as December 6, 1791. On the later date it appeared in the *Moniteur* under the title "Sur la Dette et sur les Assignats." Even here it does not refer specifically to Clavière, but in the *Acte de Navigation*, the collection of articles published by Ducher in August, 1793, it was printed under the title used above.

United States and, since the Revolution, in France. "As soon as hard money has a substitute," he expounded, "it is that substitute which performs the service of money in small sales and retail commerce. Coin is always necessary for certain payments to the public treasury, the settlements in foreign commerce, persons travelling abroad, and it sells higher because it appears scarce. . . . The specie brought into the thirteen new republics of America by hostile and allied armies or by commerce with the West Indies did not delay to quit that foreign shore in order to flow back to London. . . . Thus experience in the New World and ours proves that the multiplication of pieces of paper is one of the causes which enhances the price of specie."

The refusal to redeem the acknowledgments in which the interest on the debt was paid, he continued, would make these also subjects of speculation on the Rue Vivienne and increase stock-jobbing rather than decrease it. The issuance of billets of ten sous was only to make matters worse, to drive specie out of the departments as it had been driven out of Paris and to extend stock-jobbing from the Rue Vivienne out to the smallest villages. The characteristic common sense of Ducher's point of view is illustrated by his comments on the "*billets patriotiques*"; none but the French, he declared, were capable of calling "patriotic" these "billets" of speculators who grow

rich, as a result of the trusting faith of the people, by making specie scarce and thus increasing prices.

Ducher condemned all policies based on a lack of confidence in the financial strength of France. When the first emission of assignats was made, he pointed out, specie was lacking in the public treasury, but not in France; and even after all the reduction due to withdrawals by the émigrés and to the unfavorable balance of trade France still had as much as Holland or England. The manufacture of national billets of ten sous would simply further remove the moment so much desired when specie should reappear.

In this same month Ducher published a pamphlet on the question of extinguishing the debt, entitled *De la dette publique en France, en Angleterre et dans les États-Unis*.⁶ In this work he advocated again the immediate liquidation of the whole of the debt. Such a measure, he declared, would be at once beneficial to the state, just to the creditors, and easy to effect. A survey of the national resources brought him to the conclusion that they exceeded the debt by at least 269 millions. Allowing certain less burdensome forms of the debt to continue, and using the interest for 1792, the total resources applicable to the reim-

⁶ *De la dette publique en France, en Angleterre et dans États-Unis, par M. Ducher*. The date of the pamphlet is determined by a note on the title page of the copy in the British Museum, in Ducher's own hand, I believe, "Imprimé vers la fin 1791." A notice of the pamphlet occurs in the *Moniteur* of April 2, 1792.

bursement of the debt exceeded the sum required for the operation which he proposed by 927 millions of francs. Even if this estimate exceeded the actual by 1,700 millions, leaving instead a deficit of 774 millions, the deficit could be covered in three years by applying to it the sum, 258 millions, now devoted to interest.

The extinction of the debt, according to Ducher's plan, could be brought about by several simple but drastic measures. First, all interests and *rentes* should stop at the beginning of the year 1792. All creditors should be required under penalty of forfeiture to present their titles in the course of 1792, receiving in their place assignats or *bons de caisse* receivable in governmental transactions. Finally the national property should be disposed of by sale to the holders of assignats. This process, he declared, would in eighteen months bring in five-sixths of the assignats and result in the reappearance of hard money.

Such results would enormously strengthen the position of the Republic. It would bind to it all who purchased national property and to whom the return of the old régime would mean eviction. In case of war the financial strength of France would be reinforced by the great amount of revenue released by the extinction of the debt and the cessation of interest payments, while the increased credit of the state would make possible loans that under existing conditions were inconceivable.

In the latter part of his pamphlet, Ducher surveys the financial institutions of England and the United States, to point out certain lessons for France. The establishment of a permanent national debt, such as that of England, he declared, would have the effect of making changes of government difficult. "The ancient British government is maintained because it pays interests, the capital of which no revolutionary government could repay." The Americans, on the other hand, had successfully undertaken a plan of reimbursement that would soon leave them clear of financial embarrassment. There was a lesson for France in their use of the public lands and in their practice of buying their own bonds in the open market when they fell below par.

The advantages that would accrue to France by the extinction of the debt were numerous and clear, according to Ducher. No power would dare to attack France if she were free from debt. Capital from abroad, from London, from Amsterdam, would be attracted by the favorable financial conditions and domestic capital would go abroad only as it became superabundant. This would make a large body of capital available for the development of agriculture, commerce and navigation.

"It is thus," concludes Ducher, "that the public credit of the French people should be established; far from us that odious maxim of the financiers

of the Seine and of the Thames; 'Public debt, national blessing.' It will be a real achievement for the good of future generations and of the present, to have the courageous justice to effect without delay the reimbursement of the public debt. The intrigues which are now agitating several of the cabinets of Europe will be undone by that single blow, our absent ones will return and France will offer to emigrants from nations still oppressed by despotism and superstition a refuge of twenty-seven thousand square leagues, where the beautiful sky embellishes the most fertile land of Europe, where the sciences and the arts add their brilliancy to that of nature. . . . The immediate discharge of the debt will oblige the enemies of France to renounce their hostile plans, but, if war is necessary, will make the French sufficiently powerful to withhold peace until the subjects of the aggressive monarchs will have settled their form of government in a free national assembly as seems to them most fit."

Ducher's pamphlet on the public debts of France, England, and the United States and his reply to the petition of Clavière were quickly followed by another memoir addressed to the commissioners of the national treasury in which he urged again the imitation of an American practice.⁷ "Why don't you ask the Assembly for authority to buy public bonds in the market when

⁷ *Moniteur*, March 5, 1792.

they are below par," he demanded; not for purposes of speculation, of course, but simply as a cheap method of amortization or of refunding. France can be saved only by reimbursement of the whole debt, or by refunding in such a manner as to reduce the principal and the rate of interest, and arrangements whereby the public bonds should be kept out of the hands of intermediaries and brokers, who are the speculators.

In the United States, Congress had authorized the president of the Senate, the Chief Justice, the Secretary of State, the Secretary of the Treasury, and the Attorney-General, or any three of them, sitting as a commission, with the approval of the President, to buy American bonds on the market at any price not exceeding par, and the President was authorized to borrow \$2,000,000 at 5% to extend this process of amortization. This practice of purchase in the open market at prices below par, continues Ducher, is plainly profitable. "At present the national treasury pays interest on a principal that it can refund at a profit of 20%. With public bonds at 25% below par, 20 millions can be bought for 15 millions, with a profit of 5 millions. With specie at 50 above par, 20 millions of specie will buy 30 millions of assignats, with a profit to the treasury of 10 millions. At least, let us buy the bonds of that part of the debt which are most depreciated. What individual would hesitate to buy his own obligations at a profit?

"In spite of the fact that the debt of France is generously secured and the interest regularly paid, the bonds are constantly depreciating. It is to the interest of the state to sustain its credit and protect its creditors by well-directed purchases when prices fall below par. If it is objected that the state should not recognize depreciation of its own instruments, it can be answered that it is forced to do so when it buys specie at an advanced price.

"Purchases to maintain the parity of bonds and paper will deprive foreigners of great profits which they are able to take by manipulation of exchange. The Americans, by our loss on exchange between Paris and London or Amsterdam, can free themselves of their debt to France by paying only $\frac{2}{5}$ of what they received. A banker in London can buy stock of the old company of the Indies which is at 80, with letters of exchange drawn upon himself, and get 50 millions of stock for 10 millions of specie. Foreigners, speculating in our funds, thus render us tributary and find a great part of our public fortune an easy conquest. The maintenance of the debt at par would put a stop to this drain on our finances.

"Certainly, concludes Ducher, the state has no obligation to stay its hand for the benefit of the speculators of the Rue Vivienne, who are doing everything in their power to embarrass the finances by selling bullion at their own price, di-

verting the assignats from the purchase of national goods, their true destination, securing the issuance of *billets* of 10 sous."

Ducher's efforts to bring about the extinction of the debt were quite in vain. The Legislative Assembly continued the policy inherited from the Constituent and issued more and more assignats with the result that by September, 1792, there was no going back. Ducher seems to have realized the futility of attempting to stay the tide, and to have directed his energy to the promotion of other elements in his program. It was not until May, 1793, when the problem of high prices, resulting from the war and the depreciation of the assignats, had become acute, that financial subjects again began to command his attention. His own situation, too, had changed considerably, as has been noted,⁸ by the establishment of the first Committee of Public Safety, with his friend Barère in a leading position.

In April, 1793, partly as an attack on Clavière,⁹ and partly as an introduction to a new series of articles on finance, he published his reply to Clavière's petition of November 5, 1791, pointing out that the experience of the past year had shown that his objections to Clavière's program had been well founded. "In September, [*sic*: it should be "December" and is so dated in the *Moniteur*,]

⁸ See above, page 81.

⁹ See above, page 228.

1791, I replied to a printed petition which asked that the redemption of notes above 10,000 livres be suspended and that notes of 10 sous be issued. Now in April, 1793, I repeat these same observations and ask if the experience of the last year has not proved how well founded they were."¹⁰

Ducher, however, had a message more directly applicable to the circumstances existing in 1793. It was no longer possible, he urged, to remedy the situation by devising new taxes, since the application would necessarily be unjust on account of the existing confusion of financial affairs. What was necessary was *demonetisation*. That and that alone would tend to restore the ancient scale of prices. If it caused a loss to the holders of the demonetised assignats, it would be a single loss instead of the steadily continuing depreciation of the whole mass of assignats, while the loss would be limited by the fact that the demonetised paper would still be secured for its face value.¹¹

A month later¹² Ducher again urged the value of demonetisation, pointing out that demonetisation combined with the emission of new assignats was of no effect,—that is was important to reduce

¹⁰ *Moniteur*, Apr. 23, 1793.

¹¹ "Assignats démonnayés." *Moniteur*, May 19, 1793. Ducher had ready a measure to effect the demonetisation, but some exigency of space, apparently, prevented its being printed with his first article, nor does it appear in a later number of the *Moniteur* as the editor promised.

¹² "Démonnayage et émission des assignats." *Moniteur*, June 20, 1793.

the total of assignats. With demonetisation should be combined a plan to buy back assignats in the open market, as he had proposed in 1792, and a proper economy in administration.

In the spring of 1794, Ducher attempted to extend to the financial machinery the program of simplification and centralization which he had applied so drastically to the customs service. The problem of reorganization of the land-tax system was being discussed in the Convention upon the basis of a report by Ramel, presented to the Convention May 10, 1794. The principal features of Ramel's proposal are, first, that the basis of land taxation should be cadastral, with some classification according to income, and, second, that the commune should sustain a corporate responsibility for taxation of the lands within their borders.¹³

Ducher's ideas, which differed fundamentally from those of Ramel, were presented in the *Moniteur* a few weeks later.¹⁴ In this article Ducher bitterly, and with reason, denounced the complicated system then existing: "Quarante mille huit cent quarante repartitions, ayant chacune quatre rôles pour quatre perceptions de fonds, principal et accessoires, presque autant de dégrèvements, un nombre innombrable d'états et bordereaux, doubles, triples, et de mémoires envoyés et ren-

¹³ *Moniteur*, Feb. 18, 1794.

¹⁴ "Suppression des contributions du federalisme," *Moniteur*, March 1, 1794.

voyés respectivement entre ces quarante mille huit cent quarante divisions, leur correspondances avec deux et trois ministères, administrateurs, municipaux, trésoriers, greffiers, commissaires-adjoints, collecteurs, porteurs de contraintes, arpenteurs, experts,—c'est-à-dire au moins trois mille hommes occupés à administrer l'impôt, comme les parlements administraient la justice et les prêtres le Saint-Sacrament!" Still more vicious, according to Ducher, was the system of corporate responsibility. "C'est en isolant les intérêts qu'on assure l'exécution des lois; la résistance d'un individu ne saurait la suspendre, un corps l'arrête trop souvent."

This complex and cumbersome system Ducher proposed to replace with that which he had observed in operation in North Carolina. This system provided for the individual appraisal of each piece of property, and for the imposition of a tax upon each one according to its value, not according to its revenue. This appraisal he proposed at first to leave to the proprietor, reserving for the protection of the state the right of preëmption. In the proposal which he published in the *Moniteur* of May 26, 1794, he substituted for the preëmption feature a system of national inspection, with a board of arbitration in case of disputed valuation.

Although Ducher's proposal received no formal consideration by the Convention, his article

was apparently of some influence. In the debate on Ramel's proposal, Bourdon de l'Oise, with whom as reporter of the Customs Commission Ducher had been so closely associated, and Tallien protested against it, arguing for a system of assessment such as Ducher had proposed. They succeeded in securing the postponement of Ramel's proposal and its reference to the Committee of Public Safety.

Ducher's next—and last—contribution to financial controversy appeared in the *Moniteur* about a year later. In the spring of 1795, much of the time and attention of the Convention was taken up by the consideration of proposals designed to palliate or remove the evils of the financial situation. Dubois-Crancé was proposing the collection of revenue in kind.¹⁵ Johannot, in a general measure, was proposing removal of the prohibition of trade in gold and silver¹⁶ and the establishment of a land bank or "caisse hypothécaire."¹⁷ The function of this land bank was to offer a means of converting assignats into "cédules hypothécaires" or mortgages on specific parts of the public domain.

To the debate over these proposals, Ducher contributed four articles in the *Moniteur*.¹⁸ In the

¹⁵ *Moniteur*, May 16, 1795.

¹⁶ *Ibid.*, April 14, 1795.

¹⁷ *Ibid.*, June 8, 1795.

¹⁸ "Resiliation des baux—Impôt en nature—Exportation des espèces d'or et d'argent," May 15, 1795; "Commerce par l'État et

first he attacked Dubois-Crancé's proposal to collect revenue in kind and Johannot's proposal to permit exportation of and trade in gold and silver. He pointed out that such a measure as the first involved practically a return to a system of barter. "Nous voilà revenus au temps de la formation des sociétés, au change de denrées pour denrées, au bon temps de la vie errante et dans les bois. On n'avait ni faim, ni froide: on vivait de prunes sauvages, d'eau claire et du code de la nature, sans être ni pauvre, ni malade. . . ." The constant increase in the flood of assignats he compared to the increase in gold and silver since the discovery of America, with the corresponding increase in prices crowded into a few years instead of three centuries.

Johannot's proposal to permit trade in gold and silver received more serious discussion. The effect of the issue of assignats for the purchase of gold to be sent abroad to pay for importations, declared Ducher, had the effect of destroying domestic enterprise. "Chaque flot d'assignats ejaculés pour acheter de l'or pour l'envoyer à l'étranger retient le grain français dans son épi; et la gerbe dans la grange, oubliée, appelle en vain, pour nous donner l'abondance, les coups et les chansons des batteurs. . . . Vous perdez plus

système d'une banque ou caisse hypothécaire," May 17, 1795; "Demonnayer beaucoup, monnayer peu," June 15, 1795; "Dette publique consolidée par Cambon et hypothéquée par Johannot," July 9, 1795.

de vous-mêmes que vous ne recevez de l'étranger. Vous faites fuir le blé français, vous le faites cacher, vous empêcher la reproduction, vous inondez le sol; en le subassignatisant vous le faites geler, et il ne manque à nos ennemis que le courage des conquérants de la Hollande."

To export gold, he declared, was only to strengthen the hands of the enemies of France at her expense. Paper money prevents foreign commerce as effectively as the iron money devised by Lycurgus. "Ayons de bonnes finances, nous aurons une bonne paix; c'est servir l'agiotage et les projets d'une coalition qui n'est morte que de présenter la paix comme le seul moyen de les restaurer!"

In the second article, entitled "Commerce par l'État, et système d'une banque ou caisse hypothécaire," Ducher attacked the central portion of Jothannot's scheme, the land bank. Comparing Jothannot's plan to the system of Law, of malodorous memory, he pointed out that the new system would be liable to the weakness that had brought down the old one in disaster: the assignat would always have a price in specie, and that price would be controlled by those who had every reason to depreciate the assignat, that is to say, the brokers and bankers who had foreign exchange instruments to sell. He denounced the imputation against the credit of the state implied in the plan to give specific security for the obligations issued

by the state, and in the recognition by the state of the current market prices of the assignat. Such a plan as Johannot's, he declared, might be applicable to a closed city community, such as Fichte was later to conceive, but not to a great commercial nation with connections in all parts of the world.

As the real remedy for the financial evils of France, for the depreciation of the assignat and the increase in prices, he reiterated his aphorism: "Have less money and spend less!" France, he pointed out, was in the position of Portugal, if the three billions of gold which that country had received from the mines of Brazil, in the last two centuries, had remained there. "Le Portugal a, depuis deux siècles, reçu 3 milliards d'or de ses mines du Brésil et du Pérou; il ne lui en reste pas 20 millions. Si ces 3 milliards étaient encore à Lisbonne, on y vendrait une orange 12 francs: nous avons, en cinq ans, reçu 8 milliards d'or, que nous avons encore, que nous augmentons tous les jours." The escape from these evils was simple. "Ayons moins du monnaie; la denrée les marchandises ne fuiront pas les assignats; elles courront après." Above all it was important that the ultimate liquidation of the assignats at their full face value should be kept in mind. "Il n'y a pas un sou à perdre sur les assignats; ceux qui, pour réaliser, les donnent au-dessous de leur valeur, réalisent leurs pertes."

Ducher's attack on Johannot's proposal was replied to by a partisan of the latter, one Mengin, in a pamphlet entitled *Réponse aux observations du citoyen Ducher, inséré dans le Moniteur du 28 Floreal, contre la Banque ou Caisse hypothécaire présentée par Johannot au nom du Comité des Finances*.¹⁹ Mengin's reply is interesting principally because he connects Ducher's financial ideas with those of Bourdon de l'Oise: "Les idées du C. Ducher en finance sont connues, elles consistent dans le plan de demonetisation de Bourdon." It is probable, in view of the relations that had previously existed between Bourdon and Ducher, that Ducher, rather than Bourdon, was the originator of the ideas. For the rest Mengin's pamphlet is devoted to showing that Ducher's attack upon Johannot's proposal was based entirely upon the charge that it did not provide for or promote retirement of the assignats. This, Mengin pointed out, was not the purpose of the proposal, but rather to supply a substantial basis for the assignats in circulation, by offering to the public an advantageous mode of retiring the assignats at will by providing an advantageous method of converting them into "cédules hypothécaires."

In the last article of the series, Ducher attacked Johannot's plan to issue "cédules hypothécaires," that is to say, obligations hypothecated upon specific pieces of property. . . . This Ducher

¹⁹ *Arch. Nat.*, AD, XVIII^a, 26.

regarded as a dangerous attack upon the public credit. To issue bonds based on specific security, he pointed out, was to admit that real estate which might be reduced in value or destroyed was better than the faith of the nation, whose means, actual or prospective, would always exceed any debt it might incur. The only effective way, he repeated, to make the assignats good money, was to reduce the quantity in circulation.

The plan of Johannot, he declared, would only make matters worse. That of Bourdon was better, since it did not involve a bankruptcy, but it failed to provide against a repetition of excess issues in the future. Neither of these plans was the equal of that which he himself proposed: he had evolved it from a study of the greatest economists—Smith, Stewart, Bolingbroke, Robertson, Stanhope, Fox, Sheridan, Hamilton. It involved an increase of the revenue and the use of the severest economy, but it did not pretend to provide huge revenues for an indefinite period, as did those of the “*empyriques politiques*.” “These men wish to cure us by making us more ill—by giving us *billets* instead of assignats. All demand a new issue of assignats or of banknotes, none speak of taxes or of economy. All promise the French government ‘the most disinterested services!’ The strong, enlightened authority which, to prevent the total destruction of France, has ordained the closing of the lairs of anarchy, will see

the snare held out to the public faith and will not permit the operation of a bank incompatible with that of the state, based upon the face value of the assignat and not upon its stock-jobbing price (*au cours de l'agiotage*)."

With these attacks upon Johannot's proposals, Ducher's career as a controversialist in the field of finance came to an end. Although he published one more financial article, a description of the finances of North Carolina, dating from his consular career,²⁰ he seems to have had no connection as a publicist with the later stages of the sordid history of the assignat. Despite the soundness of his principles, and his persistent and intelligent presentation of them through the *Moniteur*, he was entirely without success in the positive sense. That he had, however, some influence with Bourdon, who was one of the principal opponents of the land bank scheme, can scarcely be doubted, but it is, of course, impossible to measure with any exactness the degree to which the credit for the defeat of that scheme is due to him. Otherwise, the Hamiltonian principles and practices which he preached so persistently found no foothold of support in the Convention to stay the resistless tide that was bearing the Republic on to bankruptcy and financial disaster.

²⁰ "Finances du Caroline du Nord." *Moniteur*, March 7, 1796.

CONCLUSION

DUCHER'S SIGNIFICANCE

THE introduction of a new figure upon the already crowded stage of the French Revolution seems to involve some duty of justification. Was he an actual potent influence in his own time and place, or was his name only accidentally connected with this movement or that? Were his activities mere "sound and fury signifying nothing," or did he contribute something distinct and ponderable to that stream of development in human events which it is the special function of the historian to analyze and to trace?

The first of these questions has been answered in the course of the previous chapters. It may be proper, however, to summarize here in a general way his work as a whole. The quantity of the legislation attributable to Ducher is very considerable, especially when regarded as the work of an individual without official voice in the Convention, or even in a subordinate body, except as he, so to speak, created one for himself. Leaving aside his somewhat uncertain relation to the Tobacco Law of March 1-4, 1791, the definitive list of decrees or parts of decrees in which his influence or his authorship is traceable includes no

less than fifteen items.¹ Beside the achievement of the great aim of his career, embodied in the two acts of September 21 and that of October 18, 1793, he effected profound changes in the organization and functions of the department of foreign affairs, by the transfer to it of the consular bureau, the commercialization of the "bureau de contentieux politique," and the creation of the "bureau diplomatique et commercial," in addition to the transfer to it of the customs administration and the drastic changes proposed by the act of December 16, 1793. He revolutionized the customs administration by these same acts, as he had centralized it by the Act of September 21, 1793, and nationalized it by the Customs Code. His act of September 11, 1793, integrated the colonies with the nation, while the abolition of the free ports worked a similar result on Marseilles, Dunkirk and Bayonne. Not to be ignored are his acts of 7 Brumaire An II (October 28, 1793) requiring of the customs service and of foreign representatives the statistics so necessary to test and to determine commercial policy.

In effect, then, Ducher brought about the establishment in principle of exclusionism in commercial policy, he completed, or helped to complete, the commercial unification of France, he reorganized the customs service on a strictly national basis, after the example of the United States, he estab-

¹ See Appendix III.

lished commercial advantages as objects of French diplomacy, as Vergennes had failed to do. From another point of view, it may be noted that practically all of the legislation relating to questions of commerce and administration, passed by the Convention between the downfall of the Girondins and the revolution of Thermidor, shows his influence or was entirely his work.

The question still remains, to what extent was all this permanent? That question can perhaps best be answered by a brief examination of the later history of the various measures in which the results of Ducher's work are embodied.

Part of Ducher's work in administrative reorganization had great permanence. Some of his measures, of course, like the creation, or, rather, "commercialization," of the "bureau de contentieux politique" and the "bureau diplomatique et commercial" were of too slight a character to leave any permanent impress. His attempt to make the customs service an integral part of the Department of Foreign Affairs (Act of December 16, 1793) failed dismally. "We will not present the text of this law," wrote the compilers of the official or semi-official *Réceuil des Lois des Douanes* in the year VIII.² "It was an imposition upon the good intentions of the Convention, and its principal provisions could not be continued without bringing about a disquieting disorganiza-

² Part 2, p. 91.

tion of the whole system. It was repealed by the law of 1 Ventose³ and the arrêts of the Committee of Commerce of 16 Germinal³ and 3 Floreal An III."³ It is to be noted, of course, that at the head of the customs service at this time were the ex-administrators who had been displaced by the act of December 16, 1793. Ducher himself, however, recognized that the business of collection should be entirely in the hands of the treasury.⁴ At the abolition of the Executive Council and the establishment of the twelve commissions, the Commission of External Relations was still in charge of foreign relations and the customs,⁵ but by September 29, 1794, we find the Commission of Public Contributions recommending to the Committee of Commerce reorganization of the Customs Administration into three divisions and the appointment of Collin and Magnien, two ex-administrators,⁶ which Ducher had exco-riated in his *Acte de Navigation, Seconde Partie*, when it was first proposed.⁷ It would be superfluous to recount the numerous attempts to reorganize the customs service in the ensuing seven years. In 1797 something like the old adminis-

³ February 19, April 5, April 22, 1795.

⁴ *Moniteur*, July 10, 1794.

⁵ *Procès-verbal de la Convention*, Apr. 1, 1794, p. 338. Ducher specifically urged the continuance of this arrangement in the *Moniteur*, July 10, 1794.

⁶ Gerbaux et Schmidt, IV, 463-464.

⁷ See above, page 173.

tration was established, with three ex-administrators, Collin, Magnien and Chalons, once more in charge. Finally, in 1801, an arrêt of the consuls once more established the centralized system at which Ducher had been aiming, with Collin as director-general, and under him, as administrators, his old colleagues, Chalons, Magnien and Lapierre.⁸ It was not until 1804 that the execution of the laws in regard to the customs was definitely entrusted to the Minister of Finance.

Most of Ducher's administrative work was of a more abiding character. The consular bureau was soon reconstituted after its abolition on October 8, 1793,⁹ but its transfer to the Department of Foreign Affairs effected by the act of February 13, 1793, which Ducher had inspired, was a permanent change. In 1795, however, the Ministry of Marine was given charge of the correspondence with the consuls in so far as it related to the administration of the marine and of the colonies.¹⁰ The centralization of functions relating to the customs in the hands of the Customs Administration¹¹ was also permanent. Ducher's scheme for the collection of commercial statistics (Act of October 28, 1793,) was only the beginning of what is at present one of the most considerable functions of modern governments.

⁸ *Moniteur*, Aug. 24, 25, 1801; Oct. 3, 1801.

⁹ Masson, *Le Département des Affaires Étrangères*, p. 373.

¹⁰ *Réceuil des lois de la marine*, VI, 5.

¹¹ Act of Sept. 21, 1793. See above, page 133.

It was with the act relative to the Navigation Act and the Customs Code that Ducher made his most distinct and most permanent impress on French administration. Of the thirty-seven articles of the first act not of a temporary character, twelve have been abrogated or replaced (Articles 3, 4, 14, 19, 23-26, 30-33); eight have been modified or amended, three of them as late as 1887, 1897, and 1902; seventeen of the thirty-seven articles remain to this day unchanged.¹² Of the Customs Code, Titles V and VI were soon largely supplanted by the laws of April 23, 1796, and August 31, 1795, respectively, which established new regulations in regard to preëmption and seizures for contravention. Title I has also disappeared from the codes, being principally of a declaratory character. The rest of the act remained, largely unchanged, as late as February 16, 1895, when it formed, in part, the basis of a law on the colonial customs service.¹³

¹² Tripier et Monnier, *Les Codes Français*, Paris, 1900, 50th edition; Carpentier, *Codes et Lois pour la France, l'Algérie, et les Colonies*. 2 vols. 13th edition, Paris, 1909.

¹³ Tripier et Monnier, Carpentier. The status of the various articles of the Customs Code is as follows:

- | | |
|--|----|
| (a) Abrogated or omitted..... | 18 |
| Title I (7 articles); Title V (5 articles); Title VI | |
| (Articles 14, 16, 18, 19, 21); Title VII (Article 6). | |
| (b) Amended or modified..... | 13 |
| Title II (Articles 1, 2, 3, 5, 7, 8, 10); Title III (Article | |

It is not, however, in his administrative legislation that Ducher's title to fame is to be sought. It is his two political acts, the rupture of the treaty of 1786 and the Navigation Act, that after all properly give his name whatever historical significance may be claimed for it. What was the relation of these two acts, born of the Revolution, whose principles were destined to control the forms and modes of European political action through succeeding generations, to the century and more of intensest commercial struggle that has followed them? The answer is brief: they were fundamental.

Modern historians have not concerned themselves largely with these measures. Two protagonists of the unceasing struggle between free-trader and protectionist, Levasseur and Amé, recognize the prime importance of the act of March 1, 1793. Amé¹⁴ wrote of it: "By a second decree, dated March 1, 1793, the National Convention began that embittered tariff war, the unmeasured violence of which was to contribute to the

7); Title IV (Articles 1, 2, 3); Title VI (Article 24); Title VII (Article 4).

(c) Unchanged	40
Title II (Articles 4, 6, 9, 11, 12, 13); Title III (Articles 1-6, 8-12); Title IV (Article 4); Title VI (Articles 1-13, 15, 17, 20, 22, 23); Title VII (Articles 1-3, 5).	
Total	71

¹⁴ *Étude sur les tarifs de douanes et sur les traités de commerce*, I, 35.

fall of the Empire, and to pass on to the Restoration a legacy of quarrels." Levasseur says of it,¹⁵ "The decree of March 1, 1793, a simple measure of reprisal,¹⁶ inaugurated a commercial system which, aggravated by events and energetically defended by private interests, has weighed during more than sixty years on the national commerce."

The Navigation Act has received only the slightest consideration at the hands of recent historians, and the few statements made in regard to it are usually more or less inaccurate. It was possible for Risson¹⁷ in 1902 to say: "Telle fut la portée de l'acte de navigation du 18 Octobre, 1793. Malheureusement il resta lettre mort." Deschamps, in his really epoch-making work, *Les colonies pendant la Révolution*, asserts that it was passed in 1791 and "terminait dignement l'oeuvre économique de la Constituante." Levasseur's appreciation is more adequate, but indefinite and slightly inaccurate.¹⁸ Rose ignores it after promising to show that Napoleon's measures in the Continental struggle were derived from Revolutionary ideas.¹⁹

¹⁵ *Histoire des Classes Ouvrières*, 2nd. ed., I, 89.

¹⁶ This is obviously a misinterpretation. The act of March 1 was an essential step, as has been shown above, in the steady advance of restrictionism that culminated in the Navigation Act.

¹⁷ *Histoire sommaire du Commerce*. Paris, 1902.

¹⁸ Levasseur, *Histoire des classes ouvrières*, I, 87, 88.

¹⁹ "Napoleon and English Commerce," *English Historical Review*, VIII, 704.

In the earlier years of the nineteenth century, the Navigation Act was more adequately appreciated. Mollien in his *Mémoires*²⁰ suggests that "it is perhaps because France has imitated later and less opportunely that measure [the Navigation Act of Cromwell] that she is even now [1826] obliged to pay more than any other power to maintain her merchant marine." Leon Gallois, editor of the *Réimpression de l'Ancien Moniteur*, was moved to step beyond the purely editorial character which he usually maintains when the passage of the navigation act appears in the pages of the *Moniteur*. "For a proper appreciation of the beneficent tendencies of that law, tendencies which still control today the maritime code of France, it is necessary to recall that before its promulgation some insignificant formalities sufficed to admit a vessel of foreign construction to the privilege of sailing under the French flag and that that facility reduced our commercial shipyards to idleness on account of the great advantage which vessel-owners found in having their vessels constructed in England or Holland, where to our detriment a considerable trade in constructed vessels was carried on. But a feature of the law still more important for the French merchant marine was the exclusion of foreigners from the coastwise trade; because before the Republic's navigation act, as foreigners

²⁰ *Mémoires d'un ministre du Trésor public*, IV, 245.

were permitted to carry cargoes from one French port to another, they almost monopolized the trade. It is since these just and foresighted provisions were made that the French coastwise trade has achieved a great advance in spite of twenty years of maritime war. What would it have been if the French Republic had enjoyed even ten years of peace?"²¹ Saint-Ferreol in 1835²² notes in the work of the Convention "several legislative acts vigorous in their provisions and important from the consequences which have resulted from them,"—among them the act of March 1, 1793, and the Navigation Act. of the act of March 1 and the exclusion acts of Napoleon. "The prohibitive system," he writes, "is a necessity for the development of manufactures to the point where they should provide for all Europe if the English products are excluded. These are the ideas which inspired in the Convention the decrees of March 1, 1793, and in the Emperor the decrees of Milan and Berlin."

Contemporary opinion attributed great importance to the Navigation Act. The Convention received Barère's proposal of it with enthusiastic applause. The customs administrators wrote to their subordinates, "You ought to regard this act

²¹ *Rèimpression de l'Ancien Moniteur*, XVII, 726. (Note of Gallois).

²² *Exposition du Système des Douanes en France depuis 1791, jusqu'à 1834*, pp. 73-74.

²³ *Abolition du système prohibitif des Douanes*, p. 35.

as foundation of the merchant marine.”²⁴ The strict enforcement was one of the means “to ruin Holland” suggested in the curious memoir which Aulard has reprinted²⁵ as a “résumé officiel des conclusions que l’on pouvait tirer des débats intimes du Comité de Salut Public sur la politique étranger.” The “Société française des Amis de la Liberté et Égalité” of Philadelphia expressed its approval of the navigation act “which has been proposed in the Convention.”²⁶ In his “Adresse aux Bataves,” Anacharsis Cloots counted the navigation act as one of the blessings that France would carry into the Netherlands, along with the Constitution.²⁷ In 1795, the director of the Belgian customs was charged with the application of the navigation act,²⁸ and Noel, the ambassador at The Hague, was instructed to secure, if possible, the support of the Dutch in the policy of exclusion.²⁹

The Navigation Act did not, however, meet with universal approval. A concerted attempt to

²⁴ Quoted by Levasseur, *Histoire du commerce de la France*, II, 17.

²⁵ “Diplomatie de la République Française conformément au plan tracée par le Comité de Salut Public.” *La Révolution Française*, XIV, 1112-1117.

²⁶ *Arch. Nat.*, D, XXV, 59. Dossier No. 582. “Observations sur les circonstances actuelles, relativement aux intérêts de la République Française, et des États-Unis de l’Amérique.”

²⁷ Ch. Schmidt, “Anvers et le système continental.” *Revue de Paris*, Feb. 1, 1915, p. 641.

²⁸ Bacques, *Essai historique sur les Douanes*, p. 51.

²⁹ Sorel, *L’Europe et la Révolution Française*, IV, 389.

secure its repeal in the spring of 1794 is indicated by the second article in Ducher's *Acte de Navigation, Seconde Partie*. Entitled "Trois réponses à trois nouvelles objections contre l'acte de navigation," this article was in form a continuation of his article "Objections et réponses" in the first part of the *Acte de Navigation*.

The objections seem to have emanated from the customs administrators who had been uncereemoniously dismissed by the act of December 16, 1793. "Here we have questions suitable to submit to diplomats," wrote Ducher, "but not to clerks ["commis"] of the ancient barriers." In another connection he makes a similar allusion: "The one time administrators of the customs, who were connected so long with the farmers-general, still are unable to grasp the idea that a tax can be shifted."

The three objections seem to have been directed against the new tonnage duties established by the act of October 18, 1793, rather than against the Navigation Act itself. To the first objection, which was really a question whether the tonnage duty was required of French and foreign vessels in case they were forced to put into port, Ducher responded that it was so required, and pointed out that it was not to the interest of France to relieve the inconveniences caused by Pitt's violations of the rights of neutrals. France should respond to Pitt by an order permitting neutral vessels to pro-

ceed freely, outside the exceptions admitted by international law and the usage of war. Such a policy would tend to induce the neutral nations to favor France, and, coupled with a bounty in addition to the average prices of London, Amsterdam and Cadiz, would attract the grain trade into the ports of France.

To the second objection that the exclusion of foreign vessels from the coastwise trade in time of war was injurious to the Republic, Ducher replied that on the contrary, it served a very useful purpose, namely, to assist neutral vessels in the use of false papers. A Danish captain, engaged in a coastwise trip for instance, with his papers in proper form for some port not French, could plead in addition to his papers that he was forbidden by the Navigation Act to engage in French coastwise trade. The English privateers knew well enough that their suspicions were powerless in an English court as against papers in good form and this useful law.

The third objection was to the effect that vessels bringing provisions ought to be favored by exemption from tonnage duties and otherwise during war. In response, Ducher went the full length of the protectionist demands. It was just in time of war, he declared, when French vessels were practically blockaded by the high insurance rates, that they ought to be protected by the discriminating tonnage duties, that this duty would

not remain as a burden on vessels bringing grain but would be shifted to the consumer. "That duty is a light impost on ourselves, the franchise of the national merchant marine, a bounty to the tricolor, a patriotic advance, a loan generously repaid to all the citizens without exception, by the increase of agriculture and commerce, the happy and certain result of the construction of a French merchant marine."

Some months later, Scellier, in his report on the franchises,³⁰ noted that the Navigation Act cut the French out of the commission trade. About this same time, a rather insidious attack upon the Navigation Act was made and foiled. December 29, 1794, Johannot reported for the Committee of Finance a decree "for the reestablishment of the finances and the public credit," Article VIII of which provisionally suspended the Navigation Act "until the Committees of Marine and of Commerce had presented their views as to the means to employ to render its execution more certain and more useful." The irrelevance of this article to the purposes of the act and to the rest of its provisions strongly suggests that its presence there represents a more or less surreptitious attack upon the Navigation Act.

However that may be, the attack was defeated. When Article VIII was reached in the debate, Marec, who had first proposed the Navigation

³⁰ See above page 189.

Act in the Convention, rose to its defence with an interesting statement of its operation during the year or more since its passage. He demanded that this article of Johannot's decree he referred not only to the Committees of Marine and of Commerce, but to the Committee of Public Safety as well. After a review of the familiar arguments of his report of July 3, 1793, he asserted that the experience of more than a year had only confirmed the wisdom of the measure which the Convention had the courage to take in proclaiming the Navigation Act. All the neutral and allied powers, commercial relations with whom it was so important to cultivate and to extend, had, he declared, applauded that decree, because they have seen in it the most solid gage of the continuation and of the augmentation of the advantages which the alliance with France promises them. At Philadelphia especially the public satisfaction was expressed in the most unequivocal fashion. Even on the Stock Exchange at London, the acknowledgment of the greatness of this Constitutional Act of French Commerce could not be prevented, in spite of all that might result from it for the future abasement of English commercial prosperity.

Then follows a line of argument which seems to be completely ironical, not for purposes of humor, but solely to avoid direct statement. It surprised him very much, he declared, to learn that insurance on French vessels cost 27%, while that

on neutral vessels is only 5%. How does it happen, he asks, that the insurance on neutral vessels, ordinarily 1 to 1½% should be as high as 5%? "At any rate," he continues, "if the navigation act is being properly enforced, how is it that these neutral vessels are competing in the trade from one French port to another under the protection of the national authority? I don't understand that assertion at all. Neutral vessels frequent our ports, but it is for the purpose of carrying thither, under the protection of international law, the products of our allies and friends."

The next paragraph seems to explain this unhumorous, over-subtle irony. "Suspend your navigation act," he challenges: "You will thereby render subject to seizure these neutral vessels; you furnish to the English admiralty a pretext to judge good prize all the neutral vessels which the English vessels encounter at the entrance of our ports. You grievously attack your credit abroad and your good understanding with all the neutral and allied powers. Suspend your navigation act; you add to all the serious inconveniences which have already resulted from several of your previous laws on the fact of neutrality."

On the other hand, the inconveniences which French commerce was suffering seemed to Marec to come rather from other sources, and were to be remedied otherwise than by a formal suspension of the Navigation Act. "Whatever the means,

they need to be maturely considered and therefore should be taken up by the committees concerned, notably that of Public Safety."

Johannot replied that the Committee concurred in Marec's opinion as to the importance of the act, but had thought that the full application of it in the existing circumstances of France could be dangerous, and therefore was to be avoided. He concurred in the reference demanded by Marec, and it was accordingly decreed.³¹

From Marec's utterance it is apparent that the Navigation Act had been more honored in the breach than the observance. Indeed, from the beginning, the first three articles of the act relative to the Navigation Act had provided in part for the exigencies of the situation resulting from England's predominance on the sea, and in accordance therewith the Committee of Public Safety had authorized the Committee of Subsistence and Provisions to make known by its agents that during the war neutral and allied nations could import into France goods and products of prime necessity, regardless of Article III of the Navigation Act.³² A still greater breach in the principle resulted from the *arrêté* of March 14, 1794, which permitted the "indirect" importation

³¹ *Procès-verbal de la Convention*, Dec. 29, 1794, and Jan. 1, 1795, pp. 151-152, 188-189. Part of the debate is reproduced in the *Moniteur* for Jan. 4, 1795.

³² *Arrêté* of 2 Frimaire An II. *Réceuil des Lois des Douanes*, Part II, p. 76.

of colonial goods in neutral vessels provided their origin was established by a certificate of origin.³³ Even this requirement was abandoned by the *arrêté* of July 23, 1795.³⁴

As a result of the debate between Marec and Johannot the question of suspending the Navigation Act was taken up by the Committee of Public Safety. At the suggestion of the Committee of Commerce, a joint session of these two committees with the Committee of Finance was called.³⁵

They were confronted with something of a dilemma. On the one hand, it was obvious that "the same motives of public utility and of urgency which determined that derogation from the principles of the Navigation Act (embodied in the first three articles of the Act of 18 October) necessitate now extending it to the provision of that act which excludes neutral vessels from the coastwise trade." These motives were, in effect, first the insufficiency of the French merchant marine for the coastwise trade, resulting from the losses in men by the requisitions of the navy and in ships by the depredations of the English, combined with the high cost of insurance—27%—for French vessels. On the other hand, formal suspension of the Navigation Act by the Convention, on ac-

³³ *Ibid.*, p. 92.

³⁴ *Ibid.*, p. 76; Gerbaux et Schmidt, II, 763.

³⁵ Gerbaux et Schmidt, IV, 652, 654.

count of the publicity which would attend it, would break down the whole system of false papers which had already grown up. Accordingly, the committees decided to take upon themselves the responsibility of suspending the act secretly, even though they recognized that it was beyond their legal powers. To protect them the arrêt was drawn up with a long preamble justifying it by the circumstances of the case, and the minute of it was signed by all the members of the three committees. The arrêt provided that any French merchant might sail his vessel under a neutral flag, and promised that the government would use all its credit with the neutral powers to secure facilities for "neutralization," while such neutralized vessels would be reestablished in their national character at the end of the war. The second article permitted French merchants to use neutral vessels for the coastwise trade in "commodities, products and merchandise of French growth, production or manufacture." The last sentence of Article II indicates a well-established system for the falsification of papers: "Les chargeurs devront faire passer par terre les acquits-à-caution et les capitaines se pourvoir d'expéditions simulées, à la manière accoutumée."³⁶

In this form the Navigation Act continued to serve the purposes of French commerce during the war. When Corsica was recovered, the di-

³⁶ Aulard, *Actes du Comité de Salut Public*, XIX, 658-660.

rectory ordered the execution of the Navigation Act and the Act relative to the Navigation Act in the island by an arrêt of August 22, 1798. A decree of October 4, 1798, ordered execution of the acts in all the islands conquered in the course of the war.

The peace of Amiens, however, ended these exceptions and "derogations." Peuchet, in his *Bibliothèque Commerciale*, reminded his readers that they were applicable only during the war, and that the original provisions of the Navigation Act and the Act relative to the Navigation Act were in force.³⁷ That the act was actually enforced is indicated by a letter of Decrès to the *préfet maritime* at Havre, advising him that since the provision of the act relative to the Navigation Act requiring a clearance for every voyage was found to work a hardship on vessels in foreign trade making new voyages from their original port of destination, henceforth such vessels should be required only to take out new clearance papers within a year.³⁸ In an arrêt renewing the arrêt of the Council of August 30, 1784, in regard to colonial trade the Consuls had provided that Article III of the Navigation Act should apply to the colonial trade.³⁹

³⁷ Peuchet, *Bibliothèque Commerciale*, (Première souscription), vol. I, Germinal An X (March, 1802), pp. 138-141.

³⁸ Minister of Marine and Colonies [Decrès] to the *Préfet maritime* at Havre, Paris, 18 Pluviose An XI. *Ibid.*, III, 325.

³⁹ Arrêt of 4 Messidor An X, (June 23, 1802), Peuchet, II, 58.

With the renewal of the war, the permission to use neutral ships in the coastwise trade was also renewed. Peuchet in 1806 printed a ministerial decision to the effect that neutral ships authorized to engage in coastwise trade owed only the duties imposed on French vessels, when the object of the permission was fulfilled.⁴⁰ An act of 14 Ventose An XI (March 5, 1803), extended the term "petit cabotage" to include the Scheldt and the Belgian ports. This had the effect of excluding English vessels from coastwise trade with these ports. At the same time it prepared for the application to them, in the impending renewal of the war, of the system of simulated papers.

The Navigation Act, then, had a continuous existence down to the very eve of the Berlin Decree. To be sure, it had been for almost the whole of that time in a state of suspension, but even so, it had performed a valuable and necessary function. At no time had there been any question of abrogating it.

What was its relation to the commercial policy of Napoleon? In an article which has had great influence upon Napoleonic studies,⁴¹ Mr. J. Holland Rose undertook to show that "the policy attributed to Napoleon of isolating Great Britain from the rest of the world was only developed by

⁴⁰ *Ibid.*, *Cinquième souscription* (1806), II, 176.

⁴¹ "Napoleon and English Commerce," *English Historical Review*, VIII, 704.

him from attempts commenced by the French revolutionists." This promise was fulfilled only in slight measure in the article. Mr. Rose limited himself to calling attention to the speeches of Kersaint and Brissot in January, 1793, and the later exclusion acts of 1796 and 1797, without even referring to the original exclusion act of March 1, 1793, much less to the Navigation Act. The generalization, however, has been the inspiration of more than one study since that time, notably that of Miss Audrey Cunningham on *British Credit in the Last Napoleonic War*. Like Mr. Rose, Miss Cunningham passes over the work of the Revolutionists with the most casual allusion to Kersaint's speech, together with the extraordinary statement (taken from Mr. Rose's article)—"The Jacobin party must have had even stronger convictions (than Kersaint) on this subject and Napoleon had close relations with the Robespierre's in his youth, and must have been familiar with these views." Miss Cunningham is on surer ground and performs a real service in calling attention to the suggestions of Paine,⁴² of Lasalle,⁴³ of De Guer,⁴⁴ and of D'Hauterive⁴⁵ that English credit, the foundation of English greatness, was vulnerable by attacks on British commerce. Not

⁴² *Decline and Fall of the English System of Finance*.

⁴³ *Des finances de l'Angleterre*.

⁴⁴ Particularly in his *Essai sur le crédit commercial comme moyen de circulation*, 1801.

⁴⁵ *De l'État de la France à la fin de l'an*, VIII. 1800.

to recognize, however, that Hauterive's work, particularly, was essentially an argument for the extension of the Navigation Act of 1793 as a European system is to miss its fundamental significance. Another essay of the same general purport, unnoticed by Miss Cunningham, was that of Xavier Audouin, *Du commerce maritime* (2 vols., 1802). Audouin bases himself squarely on the Navigation Act of Ducher, whose influence he recognizes and whose favorite idea, the adoption of a clearly commercial foreign policy aimed at a general adoption of the Navigation Act by European powers he does not hesitate to appropriate.⁴⁶

The close historical connection between these proposals of the early Napoleonic period and Ducher's program is evidenced by the remarks of Barère about maritime policy in his long-winded essay, *La Liberté des mers*,⁴⁷ published in Ventose, An VI, almost immediately after his return from exile. "A general navigation act," he writes, "has become a universal need, the hope of Europe, the object of the political efforts of France (page 356). Free France has made such an act for herself, but can be depended on to surrender her advantage in favor of the general rights of Europe and of all the maritime nations

⁴⁶ Volume II, pp. 62-68, 74. On page 57 he declares, "The minister of foreign affairs in a republic is the minister of external commerce,"—almost the very words of Ducher.

⁴⁷ *La Liberté des mers, ou le Gouvernement anglais dévoilé. Par B. Barère.* 3 vols. Ventose, An VI.

(page 351, note). The treaty which will abolish the English navigation act and substitute for it a general navigation act will be a great step forward for the commerce of the nations. That is an achievement which is reserved for the Corps Legislatif of the Republic (page 360).” In a note Barère states that the Council of Five Hundred, upon the proposal of Riou, representative from Finisterre, had just named a commission to prepare a general navigation act. This is not borne out by the records of the Council. Nevertheless, Barère’s advocacy of the Navigation Act as a basis of the settlement of Europe is highly significant. It certainly indicates that the navigation act was not a dead issue, for to his other weaknesses Barère did not add that of adhering to lost causes.

It is to be noted that the policy of 1793 had undergone a transformation which reflected the changed circumstances of the Republic. Then the Navigation Act had been contemplated as the act of France alone, which the other nations with maritime ambitions would be quick to follow, but which, at the peace, France would maintain or revoke as England maintained or revoked hers.⁴⁸ In 1798, however, when the coastline of Europe from the North Sea to the Adriatic was under French influence and the power of the Republican armies dominated the western part of the con-

⁴⁸ See above page 90.

tinent, it was possible and natural to contemplate the generalization of the navigation act as a European boycott of England.

Ducher himself, in a number of articles in the *Moniteur*, adequately represents this transformation. These articles present an interesting resemblance to the efforts of German publicists during the World War. By the French publicist, as by the Germans, England was attacked as the prime mover of the war;⁴⁹ she was accused, in the fashion so familiar to us, of manipulating foreign politics to incite the continental powers to mutual destruction, for the benefit of her own supremacy.⁵⁰ Then, as now, she was declared to be the tyrant of the seas,⁵¹ while France was struggling for freedom of the seas, for herself and for all other peoples, neutral and enemy.⁵² England's violations of international law and of the rights of neutrals were held to justify drastic reprisals on the part of France:⁵³ in one article the attempt to starve France is presented as a British atrocity,⁵⁴ while in another it is treated as sheer madness.⁵⁵ In all this Ducher was only one of a number of publicists, beginning with Kersaint in Jan-

⁴⁹ *Moniteur*, June 16, 1794.

⁵⁰ *Ibid.*, see also Oct. 18, 1794.

⁵¹ *Ibid.*, Oct. 31, 1794.

⁵² *Ibid.*, Feb. 2, 1795.

⁵³ *Ibid.*, March 10, 1794.

⁵⁴ *Ibid.*, Oct. 31, 1794.

⁵⁵ *Ibid.*, Sept. 24, 1793.

uary, 1793, who formulated the inevitable hostility that an aggressive Continental power always must feel against England.

It was, naturally, in connection with the commercial phase of the war that he made his distinctive contribution to the war literature. England's animus in the war, he declared, was the fear of "a new balance of power in Europe which would establish between the powers that independence, that equality of rights which exists between the citizens of France and that equality of freedom of the seas, that proportion of commerce which each of them hold by nature."⁵⁶ The insincerity of Pitt's policy aimed at commercial benefits: "such is the Machiavelism of Pitt: to combine the kings whom he can always separate by the system of balance of power in Europe, so as to foment a war which will shift the balance of *commerce* to his advantage, is the plan of attack of the most dangerous of our enemies."⁵⁷ Again he writes: "It is to conserve that commercial monarchy that England, in all the wars, the motive of which is never anything else than the egoistic ambitions of her commerce, has hired troops on the European continent."⁵⁸ The other powers, except Austria, were at war against themselves, against the increase of commerce which each of them will receive from the Republic

⁵⁶ *Ibid.*, June 16, 1794.

⁵⁷ *Ibid.*, Apr. 11, 1793.

⁵⁸ *Ibid.*, Oct. 31, 1794.

of France and from her neutrality in future wars between the two families [of Bourbon and Hapsburg].⁵⁹

Against this mode of attack, France should have a corresponding mode of defense. In April, 1793, Ducher writes, "The plan of our defense ought to be union, respect for the laws, absolute freedom of trade under the French flag with the colonies, with no duties except on vessels under foreign flags and merchandise of foreign industry."⁶⁰ The Navigation Act itself was presented as a mode for breaking the power of England on the sea, not only in the articles of Ducher, but also in the reports of Marec and Barère.⁶¹ After the act was passed, Ducher continued to urge its importance as a starting point for French diplomacy. It was announced as an "act of French gratitude" to the countries which had remained neutral: "Americans, Danes, Swedes. . ." wrote Ducher, "you who have had the wisdom and firmness not to yield to the insinuations and menaces of our enemies; you who have been unwilling to break off your commercial relations with us, accept a mark of French gratitude, the decree excluding intermediaries from our commerce."⁶² The reception of the new American ambassador, Monroe, by the Convention, furnished Ducher an occasion to urge

⁵⁹ *Ibid.*, June 16, 1794.

⁶⁰ *Ibid.*, Apr. 11, 1793.

⁶¹ See above, Part II, chaps. 2, 3.

⁶² *Moniteur*, Sept. 24, 1793.

the importance of cultivating relations with the American Republic, based on the "direct communications" which the Navigation Act had made alone permissible.⁶³ At the reception of the Swedish Ambassador, he declared, the flag of Sweden ought to be placed beside the tricolor on the "temple where the Navigation Act was passed, that indestructible foundation of the equality and sovereignty of nations, and of the liberty of the seas."⁶⁴

The advance of the French armies into the Netherlands opened the possibility of a wider application of the Navigation Act and the exclusion of England from its most valuable commercial connections with the continent. Demanding that the Belgian ports be "irrevocablement françaises"⁶⁵ and Holland brought under French influence, he pointed out that England "would not be able to resist the destruction of her commerce with Flanders and Holland." In addition to the abolition in Holland of feudal burdens and of internal barriers to commerce which its advance would bring about, the French army would proclaim "ce décret célébré de la navigation de France." The Dutch, he declared, would find in this Navigation Act alone, which England had never permitted to Holland, an ample indemnity

⁶³ *Ibid.*, Aug. 18, 1794.

⁶⁴ *Ibid.*, Feb. 2, 1795.

⁶⁵ *Ibid.*, July 10, 1794.

for their conquest by France. If it did nothing else, it would rid them of a commerce that was wholly to the advantage of England.⁶⁶

With the approach of peace on the continent, the evolution of the Navigation Act into a policy of general exclusion of England from the continent becomes more distinct. In an able article Ducher set forth his ideas of the relation of commercial considerations to the terms of the peace.⁶⁷ His proposals in regard to territory were by no means moderate. Spain, he held, should be required to cede the Spanish part of Santo Domingo, as well as Louisiana, taking its compensation at the expense of Portugal, England's satellite. On the Continent, he declared, it would be high treason to surrender any of the territory won west of the Rhine and of the Alps.

His proposals in regard to commerce were even more drastic. It would be treason to surrender the "natural boundaries"; it would be pusillanimous and unreasonable to fall back to the ancient commercial limits. The existing treaties of commerce were the real territory of England, upon which conquests should be made. The whole system of special treaties, which English diplomatic and commercial skill had manipulated to the benefit of England and to the cost of every other nation, ought to be replaced by a general treaty

⁶⁶ *Ibid.*, Aug. 18, 1794.

⁶⁷ "De la paix et des traités de commerce." *Ibid.*, Sept. 20, 1795.

which should do away with all preferential treatment. The Continental powers should unite in a league to enforce the freedom of the seas by means of a fleet formed by combining the fleets of the various continental powers. India should be declared free of the control of any European power, and Indian goods should be imported by the *national* vessels of each of the powers. "England is the only power which will complain of the new code; she is the enemy of all, and each power will see its commerce and its marine increase at the expense of England."

These utterances of Ducher, together with those of Barère, Hauterive, Audouin, Paine and Guer, reflect an increasing faith in the possibilities of exclusion from the Continent as a war measure against England and of the Navigation Act in particular as a means in time of peace of correcting the disproportionate ascendancy of England in sea power. As the position of France on the Continent grew stronger with the breakdown of the coalition and the conquest of the Netherlands, both the exclusion act of March 1, with its later extensions and modifications, and the Navigation Act begin to present a "Continental" aspect and to suggest the imperial system. The Berlin decree was scarcely more than the act of March 1 expanded and modified to meet the larger complexities of the imperial situation. The Navigation Act became the basis of Napoleon's commercial policy in its final development.

It is not necessary to seek indications of this relationship in accidental similarities. In word and in act, the Emperor expressed quite definitely its importance in the development of his policy. "Forty-eight hours after the peace with England," he said in 1806, "I will prohibit foreign wares and I will promulgate a Navigation Act which will allow the entry of our ports only to French ships, built of French wood and manned by a crew two-thirds French. Coal itself and 'les milords anglais' cannot enter except under the French flag. There will be many protests, because French commerce is low-spirited, but within six years there will be the greatest prosperity."⁶⁸ It would perhaps be dangerous to take too seriously this very drastic proposal, especially as it was delivered off-hand in a discussion of the possibility of raising the taxes on colonial goods.

Of definitive significance, however, for our present purpose is the Imperial Navigation Decree of St. Cloud, dated July 3, 1810. This decree embodied the Navigation Act, the various modifications and derogations of that act which had been found necessary since its passage, the system of "simulations," and finally the elaborate licensing system of the Emperor. A year later (July 3, 1811), the application of the act was extended to the new boundaries of the Empire, to

⁶⁸ Napoleon to the *Conseil d'État*, session of March 4, 1806. Pelet de la Lozère, *Opinions de Napoleon*, p. 239.

the departments of Bouches-de-l'Elbe, Bouches-du-Weser, Ems-supérieure, and the Lippe.⁶⁹

At the Restoration, the general policy of commercial restriction begun by the Convention and elaborated by Napoleon was continued. The Navigation Act, however, was modified in the provision upon which Ducher had laid the greatest stress—the prohibition of “indirect navigation” was given up. The law of December 17, 1814, substituted for it a system of “surtaxes” on goods of certain classes imported in any other than French vessels. The French merchant marine retained the monopoly of the coastwise trade and of importation from the French colonies. The system of “surtaxes” promptly led to a tariff war with the United States, which resulted in the treaty of 1822, a complete victory for the Americans, since by it all “surtaxes” were surrendered and discriminating duties limited to 5 francs a ton on the tonnage of the vessel. This led to a whole series of navigation treaties of the same general purport, first with England, then with several South American countries.

A law of 1845 reduced the requirement of complete ownership by Frenchmen to half-ownership. Otherwise the requirements remained unchanged until the law of May 19, 1866, the result of a long

⁶⁹ Merlin, *Répertoire universelle et raisonnée de jurisprudence*, XXI, 107; for an exhaustive treatment of this act, see Melvin, *Napoleon's Navigation System*.

study by a Commission of Inquiry established in 1860. This measure abolished another of the principal features of the Navigation Act, the requirement of French construction, putting the ship-building industry on a free trade basis, by permitting the free importation of foreign-built ships and, on the other hand, exempting from all duties materials for ship-building.

From the first years of the Third Republic, encouragement of the merchant marine has occupied much of the attention of French legislators. It would be without purpose to recount here the varying policies of surtax and subvention, of bounties and allowances, that the never-ceasing demands of ship-builders have been able to win from the Assembly, embodied in the laws of 1872, 1881, 1893 and 1902. In essential details the policy of Ducher had been abandoned. Of the old prohibitions, only the monopoly of the coast-wise trade and the requirement that three-fourths of the crew should be French, remain.⁷⁰

Ducher's influence, however, is by no means dead. The fundamental general principles of the act of March 1 and the Navigation Act remain in full vigor. That the national character of vessels must be sharply defined and that the national carrying trade must be stimulated are still clearly

⁷⁰ For a general survey of legislation in regard to the merchant marine since 1815, see Lemée, *Pourquoi et comment secourir notre marine marchande*; Vigier, *Étude historique des législations concernant notre marine marchande*.

essential principles of French commercial policy. In spite of continuous changes of method, and a continuous record of failure to create a vigorous carrying trade, there has never been any considerable period when these two principles were not firmly adhered to. The foundations of the economic institutions of modern France, like those of her political institutions, were laid by the statesmen of the Revolution. It is Ducher's title to the attention of the historian that he was one, and not the least, of those whose work has endured.

APPENDIX I

DUCHER'S OFFICIAL HISTORY

The story of Ducher's official relations to the governments which he served after his return from the United States has not been thought of sufficient importance to interrupt the account of the development of his influence and the history of the great issues with which he was so intimately concerned. For the most part a petty story of financial claims and place seeking, it has been gathered together here to serve as it may to give something of a perspective view of Ducher's place as an individual among the men of the Revolution.

From a date early in 1791, Ducher engaged in a long-sustained effort to secure the satisfaction of certain financial claims against the government, resulting from his service in the United States. These claims were of three different sorts. In the first place, Ducher demanded back pay for the whole period of his service at the rate of 8,000 livres a year. The salary of the vice-consulates which he had held was only 4,000 livres, but he claimed that he had been promised the larger sum. The second claim was for the expenses of his journeys in the United States. Finally he demanded indemnification for the injuries and losses

which he had sustained in the shipwreck off Long Island of the vessel which had carried him to the United States in 1783.¹ It appears that the first two claims were approved. On July 25, 1791, Ducher writes of having received 25,000 livres.² In November, 1791, he was awarded pay at the rate of 8,000 livres a year from May, 1790, to the end of 1791, apparently as a result of the decision on his claim for back-pay at that rate for the period of his service in the United States.³ His claim for indemnification for injuries and losses, however, had a long and complex history which it would hardly be useful to recount in full. This claim of 36,000 livres, approved by the Minister of Marine in 1791, was refused by Dufrenne de Leon, Commissioner of Liquidation, upon the authority of the Committee of Liquidation of the Legislature.⁴ When Bertrand succeeded Fleuriu as Minister of Marine, he was prevailed upon to grant the sum of 17,333 livres, but the order for this payment was held up, again by Dufrenne.⁵ Ducher then carried his claim to the Minister of Justice,⁶ and later to the Committee of Marine of

¹ From an unsigned, undated and unaddressed memorandum by Ducher in the *Archives des Affaires Étrangères*.

² Ducher to the Minister of Marine, July 25, 1791. *Arch. des Aff. Étr.*

³ Minister of Marine to Ducher, November 21, 1791.

⁴ Dufrenne de Leon to Bertrand, January 13, 1792.

⁵ *Ibid.*

⁶ Minister of Justice to Dufrenne de Leon, April 6, 1792.

the Legislature.⁷ These manoeuvres apparently brought no results. Nothing more is heard of this specific claim, but in the year III, Ducher requested and obtained from the Commission of External Relations a copy of the letter transmitting his brevet as vice-consul, which he required "for the purpose of establishing his services."

While Ducher was urging his claims for financial compensation, he was at the same time soliciting preferment in the consular or diplomatic service. He claimed that De Castries had promised Frances, the ex-minister to England, that Ducher would be employed in that country⁸ as one of the consular agents whose establishment was contemplated at this time.⁹ Upon his return from the United States, Ducher advanced his record and the promises made him as a claim to appointment as consul at "Philadelphia, London, Dublin, or any other principal port in Europe."¹⁰ In 1791, in view of a proposed reorganization of the American service, he asked for Philadelphia or Charleston.¹¹ About the same time he solicited from Delessart appointment to a diplomatic post¹² and a little later asked Delessart to give him a place

⁷ Register of papers in the secretariat of the Committee of Marine. *Archives Nationales* D* XVI, No. 291, dated April 16, 1792.

⁸ Ducher to the Minister of Marine, undated [August, 1791].

⁹ *Archives de la Marine*, B¹ 102.

¹⁰ Ducher to the Minister of Marine, July 30 [1790].

¹¹ Same to same, undated [August, 1791].

¹² Ducher to Delessart, undated.

as "one of the heads of a general bureau of commerce."¹³

Ducher's official status from his return to France until the fall of 1791 is not entirely clear, as it has not been possible to recover the orders of the minister which authorized his return. On September 26, 1791, he applied for and obtained a year's leave of absence on the ground that he was held in Paris by the settlement of his claims.¹⁴ This accounts for his presence in Paris until the fall of 1792, when his post at Wilmington was abolished and he was given instead a "provisional" appointment to Bristol.¹⁵ It was this provisional appointment which brought him under the terms of the act of May 31, 1793, establishing the "diplomatic and commercial bureau."¹⁶

As has already been pointed out, he seems not to have received a regular salary for his labors as a member of that bureau. On one occasion (September, 1793,) he was paid upon the warrant of a special arret of the Executive Council. About nine months later, he applied again for payment for his services, this time to the Committee of Public Safety. The treatment of this application brings out the fact that his status even at this time was somewhat uncertain. The application was referred back to him on the ground that he ought to make it clear that he had been carrying on his

¹³ Same to same, September 21, 1791.

¹⁴ Ducher to the Minister of Marine, September 26, 1791.

¹⁵ Ducher to the Minister of Marine, December 31, 1792.

¹⁶ See above page 80.

work by order of the Committee of Public Safety. He thereupon made a second application, which was approved by Buchot and the Committee of Public Safety. He was invited to come before the committee to settle the amount and in consequence received the sum of 12,000 livres, as evidenced by his receipt dated 10 Frimaire An III. A few months later, Ducher advertised for sale in the *Moniteur*¹⁷ an "obligation sur Philadelphie d'environ 13,000 livres," which may have been the form in which he received this or a later payment for his services.

In these applications for payment, Ducher describes himself as "chargé des travaux de la commission des douanes et d'objets relatifs aux rapports politiques de la France." This description seems to indicate that Ducher at least regarded himself as having a commission, direct or indirect, from the Committee of Public Safety over and above his work with the Customs Commission. Buchot, in approving his second application for payment, justifies it by "the importance of his work, the fact that customs are now separated from Foreign Affairs, and the delay in sending Ducher to Algiers."

In Frimaire An II, Ducher had been entrusted with an important mission of the character and rank which he had been soliciting ever since his return from the United States. That country had been pressing for action in fulfillment of the

¹⁷ 28 Floreal An III. *Réimpression*, XXIV, 464.

promise of the treaty of 1778, that France would use her good offices with the Barbary corsairs to secure protection for American commerce. Accordingly in Frimaire An II, the Committee of Public Safety decided to send Ducher and Lallement, minister plenipotentiary of the Republic at Venice, to Algiers and Tunis to influence the regencies to permit the free navigation in the Mediterranean of American vessels, especially those bearing supplies to France. In spite of Lallement's long diplomatic service, Ducher was given seniority and the headship of the mission.¹⁸ The departure of Ducher and Lallement was postponed from time to time until more than a year had passed. When at last the Committee of Public Safety was ready to have the two agents proceed to their posts, it was impossible to obtain any response from Ducher. Three separate summonses were sent him, the last, dated 26 Ventose An III, in the nature of an ultimatum, but he made no reply whatever.¹⁹

In spite of this palpable neglect of duty, Ducher later attempted to collect compensation from the Directory, apparently on the ground of his ap-

¹⁸ Dupuy, *Américains et Barbaresques*, pp. 93-94. See also the instructions of Ducher and Lallement, *Arch. Aff. Étr., Mém. et Docs.*, Afrique, 9, folios 196-201.

¹⁹ Commission of Foreign Relations to the Committee of Public Safety, 1 Germinal, An III. See also for parts of the story the report of the Committee of Public Safety dated 28 Pluviose An III (Alger, *Mém. et Docs.*, 14, folio 35), and Eugene Plantet, *Correspondence des Beys de Tunis et des consuls de France*, Vol. III, page 226.

pointment to Bristol and his services to the government while he was prevented by the war from going to his post. His demand (presented 28 Messidor An V) was rejected by "an arbitrary decision" of De la Croix, the predecessor of Talleyrand.²⁰ In Talleyrand, perhaps because of the protest which Ducher had uttered against the order of arrest directed against the minister in 1792,²¹ Ducher expected to find an earnest advocate of his claims. "Je me felicite," he wrote to Talleyrand,²² "d'avoir en vous un defenseur eloquent pour des travaux que vos eloges m'autorisent a presenter avec fierté." In the same letter he summarizes the commissions which he has received from Talleyrand: (1) a study of the treaty of the United States with England, "which those who attack the measures taken by the Directory . . . will read with displeasure;" (2), a statement in writing of Ducher's ideas about treaties concluded and to be made, instead of which Talleyrand had expressed himself as satisfied with the pamphlet which contained Ducher's ideas on that subject;²³ (3), a general formula for treaties of commerce. Ducher's letter also refers to memoirs which the Director Rewbell had received from him, notably one on the "sojourn and the

²⁰ Ducher to Talleyrand, 26 Pluviose An VI.

²¹ See above page 105.

²² 26 Pluviose An VI.

²³ See above page 299.

political views of the American commissioners at Paris.”²⁴ In another letter to Talleyrand,²⁵ Ducher recounts his relations with Rewbell and the favorable opinions which Rewbell had expressed in regard to his work. Discounted as it must be as the report of a conversation by an extremely interested auditor, the letter deserves attention as an indication of the continuance of Ducher’s old functions as “*fournisseur des idées*” under the Directory:

“C’est pour vous rapeler [*sic*] et conserver par écrit que le 29 Germinal der., je vous ai dit que le 26 du même mois le directeur Rewbell à qui j’exprimais mes craintes sur le tirage au sort, m’avoit répondu que mes mémoires avoient constamment prouvées des connaissances supérieures à celles de ceux élevés aux postes les plus distingués; que si la chose eût dépendu de lui, j’aurais été préféré depuis longtemps; qu’il avait reçu ces mémoires et qu’on en avait fait usage; que je devois être payé, qu’il vous demanderait un prompt rapport. Vous m’avez promis de faire ce rapport dans la décade: ne le faites pas sans lire la lettre qui je vous ai écrit le 26 Pluviose et à laquelle vous n’avez pas encore répondu.”

Our evidence carries us no further. Whether Ducher was again rewarded for his services cannot be determined. He had disappeared from the columns of the *Moniteur* with his article of June 15, 1796, and this appeal to Talleyrand seems to be the end of Ducher in governmental records.

²⁴ Ducher to Talleyrand, 26 Pluviose An VI.

²⁵ 2 Floreal An VI, (April 21, 1798).

APPENDIX II

The Correspondences between the American Acts
of July 20, 1789, and September 1, 1789, and
Ducher's Acts of September 21 and October
18, 1793.

<i>Articles of Ducher's Acts</i>	<i>Sections of the American Acts</i>	<i>Provisions.</i>
I. Navigation Act.	I. Act of Sept. 1, 1790	
Article 2	Section 1	What ships may be registered.
II. Law in regard to Clearances.		
Article 2	Section 6	Requiring an oath to be taken.
Article 3	Section 7	Providing for the oath in case of non- residence at port.
III. Act of October 18, 1793.		
Article 4	Section 4	Name of port to be painted on vessels below 30 tons.
Article 5	Section 22	Annual clearances for small coasting, fishing and river vessels.
Article 9	Section 2	Form of clearance.
Article 10	Section 7	Clearances to be delivered to port where vessel belongs.
Article 11	Section 23	Requiring bonds.
Article 12	Section 5	Procedure in case of nationals resid- ing abroad.

<i>Articles of Ducher's Acts</i>	<i>Sections of the American Acts</i>	<i>Provisions.</i>
III. Act of Oc- tober 18, 1793	I. Act of Sept. 1, 1790	
Article 13	Section 6	Form of oath.
Article 14	Section 8	Customs officer must check descrip- tion.
Article 15	Section 34	Penalties.
Article 16	Section 9	Clearances must not be sold.
Article 17	Section 10	Sales in part to be shown by endorse- ment.
Article 18	Section 11	Recital of certificate of nationality in bill of sale.
Article 19	Section 4	Names of vessels above 30 tons on the stern.
Article 20	Section 13	If the certificate of nationality is lost.
Article 21	Section 14	Change of form, new registration.
Article 24	Section 7	Description will be transferred to port where vessel belongs.
Article 25	Section 7	Upon this description new certificate will be issued.
Articles 30 to 33	II. Act of July 25, 1789.	Classification of vessels and discrimi- nating duties.

APPENDIX III

Chronological Table of the several acts of which Ducher was the author or in which his influence is traceable.

February 14, 1793.	The transfer of the Bureau of Consulates from the Department of the Marine to the Department of Foreign Affairs (Article 14 of the Act reorganizing the Department of the Marine.)
March 1, 1793.	The act denouncing the treaty of 1786 and prohibiting the introduction of English goods.
April, May, 1793.	The conversion of the "bureau de contentieux politique" into the "bureau de contentieux politique et consulaire."
May 30, 1793.	The creation of the "bureau diplomatique et commercial."
September 11, 1793.	The act abolishing the customs barriers between France and the colonies.
September 21, 1793.	I. The Navigation Act. II. The Act relative to Clearances. III. The Act centralizing the control of the customs in the Customs Administration.
October 8, 1793.	The Act which (1) abolished the consular bureau, (2) transferred the Customs Administration to the Department of Foreign Affairs, (3) created the Customs Commission, and (4) repudiated back bounties.
27 Vendémiaire An II. (October 18, 1793)	The Act relative to the Navigation Act.

- | | |
|---|--|
| 7 Brumaire An II.
(October 28, 1793) | I. The Act requiring the publication of statistics by the customs service.
II. The Act requiring the collection of commercial statistics by the diplomatic service. |
| 26 Frimaire An II.
(December 16, 1793) | The Act reorganizing the Department of Foreign Affairs and the customs service. |
| 4 Germinal An II.
(March 24, 1794) | The so-called <i>Code des Douanes</i> . |
| 12 Germinal An II.
(April 1, 1794) | The abolition of slavery in the colonies. |
| 11 Nivose An III.
(December 31, 1794) | The abolition of the free ports. |

APPENDIX IV

BIBLIOGRAPHY

I. APPARATUS OF RESEARCH

It is not considered necessary to list here the numerous catalogues, bibliographies, archival guides and indexes that have been used in the development of this essay. It is sufficient to refer to the invaluable *Manuel pratique pour l'étude de la Révolution française* of M. Pierre Caron (Paris, 1912), where the student will find a thorough introduction to all the material of this sort used by the present writer, except for the following items:

Catalogue of the library of the Academy of Natural Sciences of Philadelphia. Philadelphia, 1837.

This ancient and unsatisfactory catalogue is still the most adequate guide to the peculiarly valuable collection of Revolutionary pamphlets (some 1200 volumes), now in possession of the Historical Society of Pennsylvania. The collection was made and arranged in the latter years of the eighteenth century by William Maclure, then resident in Paris. His intention was apparently to write an account of the Revolution from this material, but other interests, particularly the "community" of New Harmony, Indiana, led him to abandon this project and to give the collection he had made to the Academy. There it remained for some time, until the rise of the Historical Society of Pennsylvania. That institution purchased the collection in 1861 for \$500. It has been well arranged on the shelves of the Historical Society's library, but no fur-

ther steps have been taken to catalogue it except the very broad classification, without names of authors or titles, in the card catalogue of the library.

The collection as a whole is invaluable for those who wish to study the influence of economic issues on the political course of the Revolution. The number of pieces relating to such issues and their arrangement strongly indicate that if Maclure had carried out his original intention, the economic side of the Revolution would not have had to wait until the end of the nineteenth century for tardy and inadequate appreciation by the men of party like Jaurès and Kropotkin and by Napoleonic scholars like Professor Rose.

Table chronologique et analytique des lois rendues depuis 1789 (v. st.) concernant la Marine et les Colonies. Par le citoyen De Saint. Paris An VIII.

Slightly supplements the more general indexes for the special subjects with which this work is concerned.

[Index of laws relating to the marine and the colonies.]
Arch. Nat. D XXXIX, 2, No. 10.

II. WRITINGS OF DUCHER

I. MANUSCRIPT

(a) CONSULAR REPORTS

Portsmouth: Nos. 2, 3, 4, 5, 8, 9, 11, 12, 15, 16, 18, 19, 20, 21, 25, 26, 27, from January 31, 1786, to June 1, 1787.

Wilmington: Nos. 2, 3, 7, 8, 9, 10, 12, 13, 15, 16, 17, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 39, from October 25, 1787, to October 1, 1789.

In the *Archives des Affaires Étrangères*. No. 3 from Portsmouth and Nos. 10, 17, 20, 21, 25, 28, 29, 30, and

33 from Wilmington are in *Correspondance politique, États-Unis*, Supplement, 4. The rest are unbound and unclassified.

(b) OTHER OFFICIAL PIECES

Note Remise par Ducher. [1792]

This document was with the unbound and unclassified reports of Ducher from Wilmington. It is not numbered or dated and it bears no indication of the official to whom it was addressed. It is a report by Ducher on the various consular officials whom he had encountered in the United States and in England. As it alludes to the departure of Mangourit for Charleston in May, 1792, and to the reputed hope of Crèvecoeur "of being governor to the *dauphin*," it seems to date from the summer of 1792, between May and August 10, or at the latest, September 21, 1792.

Résultat des prix communs du blé froment 1-16 Décembre, 1792. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, Suppl. (série 2) 13:98.

A fair copy of Ducher's article under the same title in the *Moniteur*, January 29, 1793. Of some slight significance in establishing his relation to the subsistence question (see below, Part IV, c. 2).

Projet d'acte de navigation. 11 Septembre, 1793. [Signed] Ducher.

The manuscript of the printed folder under the same title noted below, which, however, does not bear Ducher's signature.

II. PRINTED

(a) A MONOGRAPH

Coutûmes générale et locales de Bourbonnais avec des notes, par M. Ducher, Avocat au Parlement. Paris, 1781.

(b) PAMPHLETS (IN CHRONOLOGICAL ORDER)

Analyse des lois commerciales, avec le tarif des droits sur les bâtiments et les marchandises dans les treize États-Unis de l'Amérique, par J. Ducher (Londres, 20 Octobre, 1790) n. d. 35 pp.

The Bibliothèque nationale has two copies; it is not to be found in the British Museum or in the United States.

[?A proposal for a navigation act]. "*Chez Cussac au Palais Royal.*" (Paris, 1791?)

The *Procès-Verbal* of the National Assembly for January 29, 1791, notes Ducher's offer of the *Analyse* above listed and adds "à cet ouvrage étoit joint un projet de Décret de Navigation Française." The minutes of the Committee of Agriculture and Commerce, to which it was referred, refers to the "deux imprimés" the second of which was the "projet d'un décret de navigation française" (Gerbaux et Schmidt, II:91.) Delattre, quoted in the introduction, recommends to his readers Ducher's *projet* "on sale at Cussac's, in the Palais Royal." No copy of this pamphlet, if it ever existed, has been discovered. These expressions may refer to the proposals in the *Analyse* itself (see within, Part II, chapter 1.)

De la dette publique en France, en Angleterre, et dans les États-Unis de l'Amérique, par M. Ducher. n. d.

The copy in the British Museum (F. 202) is marked, I believe, in Ducher's own hand, "imprimé vers la fin 1791." Noticed in the *Moniteur*, April 2, 1792.

Nouvelle alliance à proposer entre les Républiques Française et Américaine, par Ducher. 8 pp. n. d.

Signed, "Ducher, 20 Septembre, 1792, l'an premier de la République française." Reprinted in the *Moniteur*, October 30, 1792.

Suppression des barrières entre la France et les colonies. 15 pp. n. d.

Signed "Ducher, 1er Octobre, 1792, reprinted in *Moniteur* November 4, 1792, and in Ducher's *Acte de Navigation*, etc.

Convention Nationale. Acte de Navigation, avec ses rapports au commerce, aux finances, à la nouvelle diplomatie des Français. Par G. J. A. Ducher. Imprimé par ordre de la Convention nationale. Décret du 18 Août, 1793. Paris, 1793.

Discussed in Part II, Chapter III, of this work.

Convention Nationale. Projet d'acte de navigation. Imprimé par ordre de la Convention Nationale. pp. 2 n. d.

Identical in terms with the manuscript signed by Ducher, dated September 11, 1793.

Projet de décret relatif à celui de 21 Septembre contenant l'Acte de Navigation. Imprimé par ordre de la Convention Nationale. pp. 10, n. t. p.

For the evidence of Ducher's authorship, see Archives Parlementaires, 76:249, and the discussion in Part II, Chap. 3.

Convention Nationale. Les Deux Hemisphères, par A. G. J. Ducher. Le 7 jour du 2me mois de l'an II. Paris, 1793.

Reprinted with the omission of three paragraphs, in the *Moniteur*, Oct. 18, 1793.

Projet de Code des Douanes présenté par la Commission des Douanes. 15 Brumaire An II. Paris, 1793.

For the evidence of Ducher's authorship, see Part III, chap. 2, of this work.

Convention Nationale. Douanes nationales et affaires étrangères, par G. J. A. Ducher. Le 22 Brumaire An II. 6 pp. Paris, 1793.

Discussed in Part III, chapter 1, of this work. Three paragraphs are in the *Moniteur*, December 5, 1793.

Convention Nationale. Projet de Code des Douanes. Par G. J. A. Ducher. 2 Frimaire An II. Réimprimé par ordre de la Convention Nationale. pp. 18. Paris, 1793.

This is a re-edition with some modifications of the projet published under the name of the Customs Commission (see above).

Acte de Navigation avec ses rapports au commerce, aux finances, à la nouvelle diplomatie des Français. Imprimé par ordre de la Convention nationale du 14 Germinal, l'an 2 de la République française une et indivisible. Seconde Partie. pp. 58. Paris, 1794.

In addition to all the articles published by Ducher since the publication of the *Acte de Navigation* in August, 1793, this collection contains four new articles which are discussed in Part III, chapter 3, and Part IV, chapter 3, of this work.

(c) ARTICLES IN THE MONITEUR

[Ducher to M. ———, communicating a table of the population of the United States.] February 4, 1792.*

“Aux commissaires de la trésorerie nationale.” March 5, 1792.

Advocates purchase by the state of its own bonds.

* The dates indicate the issues of the *Moniteur* in which the articles appeared.

“Aux procureurs—syndics des départements et des districts.” May 7, 1792.

Advocates publicity in administration.

“Aux armateurs français.” June 29, 1792.

Advocates a navigation act.

“Commerce étranger dans les îles anglaises de l’Amérique.” September 7, 1792.

English methods of exploiting American trade.

“Commerce des grains dans les États-Unis de l’Amérique.” September 24, 1792.

Advocates removal of restrictions.

“Navigation des Français et des Américains.” October 1, 1792.

Urges prohibition of indirect importation.

“Aux armateurs français.” October 14, 1792.

On American fisheries.

“Douanes nationales dans les États-Unis de l’Amérique et en France.” October 14, 1792.

Comparison of costs of collection.

“Consulats et affaires étrangères.” October 20, 1792.

Transfer of consular bureau to Foreign Affairs.

“Nouvelle alliance à proposer entre les Républiques Française et Américaine.” October 30, 1792.

To be based on commercial arrangements.

“Suppression des barrières entre la France et ses colonies.” November 4, 1792.

“La France creancière des États-Unis de l’Amérique.” January 11, 1793.

Renews proposal to accept supplies in payment of debt.

“Résultat des prix communs du blé-froment, du
Shows widely varying prices in the different parts
of France. A fair copy of this article is in the *Archives
des Affaires Étrangères*.

“Acte de Navigation.” February 12, 1793.

Advocates the Navigation Act as a war measure.

“Manufactures anglaises.” February 27, 1793.

On the exclusion of English goods.

“Pitt.” April 12, 1793.

Free trade between sections of the French Empire.

“Sur la Dette et sur les Assignats.” April 23,
1793.

Reply to Clavière’s “Petition” of November, 1791.

“Attribution de la régie des douanes extérieures
au ministre des affaires étrangères.” May 7,
1793.

Commerce as the basis of foreign relations.

“Anglais en Russie.” May 12, 1793.

Illustrates the need of a navigation act.

“Assignats demonnayés.” May 19, 1793.

Advocates demonetisation.

“Nouvelle diplomatie.” June 9, 1793.

Direct commerce as the basis of foreign relations.

“Demonnayage et émission d’assignats.” June
20, 1793.

“Anglais sous pavillon français.” July 3, 1793.

On the definition of nationality of vessels.

"Agiotage officieux." August 2, 1793.

"Dunkerque-Toulon." September 24, 1793.

"Déroute de la vieille diplomatie." October 3, 1793.

Dynastic diplomacy to give way to commercial.

"Ville Affranchie." October 18, 1793.

Celebrating the fall of Lyons.

"Droit de Prémption." October 28, 1793.

Eminent domain applied to subsistences.

"Alienation des colonies françaises." October 29, 1793.

Three paragraphs reprinted from *Les Deux Hémisphères*, opposing liberty of commerce in the French West Indies for the "Anglo-Americans."

"Les Deux Hémisphères." November 18, 1793.

Reprint of Ducher's pamphlet of the same title, with the three paragraphs which had been printed under the title, "Alienation des colonies françaises," (see item next above) omitted.

"Diplomatie commerciale." December 5, 1793.

Reprint of three paragraphs from Ducher's pamphlet, *Douanes nationales et affaires étrangères*.

"George III sera-t-il reconnu." February 5, 1794.

War-time bravado.

"Pitt et Georges à la Tour de Londres." February 22, 1794.

“Suppression des contributions du fédéralisme.” March 1, 1794.

Advocates centralized system of assessment.

“Neutralité auxiliaire commandée aux États-Unis d’Amérique par leur ci-devant tyran Georges III.” March 10, 1794.

“Trois reponses à trois nouvelles objections contre l’Acte de Navigation.” April 11, 1794.

Reprinted from *Acte de Navigation, Seconde Partie*.

“Des servitudes de Marseilles, Bayonne et Dunkerque.” April 19, 1794.

Reprinted from the *Acte de Navigation, Seconde Partie*.
An attack on the franchises.

“Projet à lire.” May 26, 1794.

On taxation: advocates American methods.

“L’Aigle et le Leopard.” June 16, 1794.

Austria and England.

“Bois, mâtures et construction de bâtiments dans les États-Unis.” June 29, 1794.

[The Slave Trade of England.] July 6, 1794.

Denouncing England for trading in negroes.

“Douanes de France.” July 10, 1794.

Admits that collection should be under the Minister of Public Contributions.

“Ostende.” July 10, 1794.

Celebrates its capture.

“Le Globe.” August 18, 1794.

Welcomes the American minister, Monroe.

"Nouveaux ports de France." August 18, 1794.

Ostende, Nieuport, Anvers, Lille, Cadzand.

"Paresse nationale." September 9, 1794.

Advocates an official gazette in each district.

"Le Roi de Corse." October 18, 1794.

Denunciation of English treachery.

"Diplomatie regenerée." October 24, 1794.

Commerce, not dynastic interests, the object of the new diplomacy.

"Ostende, Dunkerque, Bayonne, Marseille." October 25, 1794.

Attack on the free ports.

"Les trois fleuves." October 31, 1794.

The importance of conquering the Netherlands.

"Neutralité de Suède." February 2, 1795.

The navigation act as a common interest of the two countries.

"Résiliation des baux—Impôt en nature—Exportation des espèces d'or et d'argent." May 15, 1795.

Opposes all these.

"Commerce par l'État et système d'une banque ou caisse hypothécaire." May 17, 1795.

Attack on a proposal of Johannot.

"Demonnayer beaucoup, monnayer peu." June 15, 1795.

Urging demonetization.

“Places fortes de l’Angleterre—Nouvelles limites de la France.” June 16, 1795.

The victories of the French armies in the Netherlands.

“Dette publique consolidée par Cambon et hypothéquée par Johannot.” July 9, 1795.

Another attack on Johannot’s scheme.

“De la paix et des traités de commerce.” September 20, 1795.

Important to secure commercial advantages at the peace.

[Conditions of Peace.] November 13, 1795.

Demands recession of Louisiana and Canada.

“Bilan de Georges III.” November 19, 1795.

George III and Pitt as the instigators of wars.

“Finances de la Caroline du Nord.” March 7, 1796.

Written in 1787 or 1788.

“Mediation et garantie du roi d’Angleterre.” June 15, 1796.

Ducher’s last published utterance.

III. CONTEMPORARY MATERIAL (I.E., MATERIAL WRITTEN OR PUBLISHED BEFORE 1815)

I. ALMANACS

Almanach Royal (1783-1792).

Almanach National (1793-An II).

II. COLLECTIONS OF STATE PAPERS

American State Papers. Documents legislative and executive. Folio, 38 vols. Washington, 1832-1861.

[*State Papers of New Hampshire.*]* Vol. XVIII. *Miscellaneous, provincial, and state papers, 1725-1800*—compiled and edited by Isaac W. Hammond. Manchester, 1890. Vol. XX. *Early State Papers of New Hampshire*—Albert Stillman Batchellor, editor and compiler. Manchester, 1891.

(*The*) *State Records of North Carolina*—collected and edited by Walter Clark, Chief Justice of the Supreme Court of North Carolina. Vols. 18-21, 1786-1790 and indexes. Goldsboro, N. C., 1900-1914.

Primitive editing and poor printing.

III. COLLECTIONS OF LAWS

Bulletin de lois. Paris, 1794 to date.

The official means of publication, created by decree of 14 Frimaire An II. The first series (six volumes) extends from 22 Prairial to the end of the Convention. The second series (nine volumes) covers the period of the Directory.

Collection des lois depuis 1789 jusqu'à 22 Prairial An II, formant le commencement du "Bulletin des lois." 7 vols. Paris, 1806.

This collection, also official, retrospectively completes the *Bulletin*.

* Binder's title the only general title.

Carpentier, Adrien: *Codes et Lois pour la France, l'Algérie et les Colonies*. 2 vols. 13th edition. Paris, 1909.

Duvergier, J. B.: *Collection complete des lois, décrets, ordonnances, règlements et avis du Conseil d'État*, etc. 24 vols. Paris, 1825-1828.

Valuable for the cross-references provided, but incomplete and often inaccurate.

*Réceuil général des Anciennes Lois Françaises, depuis l'an 420 jusqu'à la Révolution de 1789—Par Jourdon, Decruchy, Isambert, (Armet et Tail-
londer)*. 29 vols. Paris, 1822-33. Referred to as Isambert, *Lois Anciennes*.

Not well edited, important laws often being calendared, not reproduced. Nevertheless very necessary and helpful as the only available collection of laws made before 1789.

Lepec (editor). *Bulletin annoté des lois*. 15 vols. Paris, 1835.

Valuable principally for its cross-references and topical arrangement.

Tripier, Louis and Monneron, H. *Les Codes français—Ouvrage—remanié par H. Monneron*. Paris, 1900. 50th edition.

Schmidt, Charles, editor. *Réceuil des principaux textes législatifs et administratifs concernant le commerce de 1788 à l'an XI*. In *Bulletin d'histoire économique de la Révolution publié par la Commission de recherche et de publication des*

documents relatifs à la vie économique de la Révolution, Année, 1912. Paris, 1912.

A work of thorough scholarship, especially valuable from the point of view of this work, for its recognition of Ducher's influence on customs legislation.

Réceuil des lois des douanes de la République française—Deuxieme Partie. Strassbourg, An VII.

Apparently official or semi-official. Bears the arms of the Republic and was published "A Strasbourg, chez F. G. Levrault, imprimeur de la régie des douanes." Valuable for its comments on the various acts, their practical operation and later modifications.

Tarif des droits des douanes et de navigation maritime du Royaume de France—par feu M. Magnien, continué par plusieurs employés de l'administration des douanes. Mis au courant au 1er février, 1815. Paris, 1815.

Some hints as to working of the navigation act at the Restoration.

IV. LEGISLATIVE RECORDS

(a) PROCEEDINGS

Archives parlementaires de 1787 à 1860. Réceuil complet des débats législatifs et politiques des Chambres françaises, imprimés par ordre du Senat et de la Chambre des députés. Première série (1787-1799). 81 vols. Paris, 1867-1914.

This much criticised work has been of great value in the preparation of this monograph as a guide to materials not otherwise easily discovered. For an adequate dis-

cussion of its demerits and the improvements in method latterly effected, see A. Fribourg (editor), *Discours de Danton*.

Ouverture des États Généraux faite à Versailles, le 5 mai, 1789. Paris, 1789.

Contains a full account of the ceremony, as well as the speeches delivered, including Necker's, which takes up the question of the free ports.

Procès-verbal de l'Assemblée nationale, imprimé par son ordre. 75 vols. Paris, n. d.

Procès-verbal de l'Assemblée nationale, imprimé par son ordre, contenant les séances depuis le [date] et suivi d'une table des matières. 16 vols. Paris, 1791-2.

Procès-verbal de la Convention nationale, imprimé par son ordre. 72 vols. Paris, 1792-An IV.

Very bare reports, sometimes, apparently, incomplete.

(b) REPORTS

Plan des travaux du Comité d'Agriculture et de Commerce, présenté à l'Assemblée Nationale, le 8 mai, 1790. [Paris, 1790].

Program of measures under consideration, or about to be considered.

Rapport du comité chargé par l'Assemblée générale du commerce, du 12 Août, 1790 de traiter de la franchise du Port de Marseilles et de tout ce qui concerne les avantages du Commerce. [S'd and dated Nov. 16, 1790]. Marseilles, 1790.

Presents the demands of Marseilles for the preservation and extension of its franchise.

Projet de decret de M. Reubel, relatif à l'impôt du tabac. Imprimé par ordre de l'Assemblée nationale. Paris, 1790.

No requirement of "direct navigation." Important in delimiting Ducher's influence.

Rapport fait à l'Assemblée nationale sur la franchise de Bayonne par M. Lasnier de Vausenay, vice-président de son Comité d'agriculture et de commerce. Imprimé par ordre de l'Assemblée nationale. [Paris, 1790].

The first attempt to abolish an important franchise. Adjourned through the influence of Mirabeau (Nov. 25, 1790).

Rapport fait à l'Assemblée nationale au nom du Comité d'Agriculture et de Commerce sur le régime à donner au port et territoire de Marseilles, quant à droits de douane. Par M. Meynier, Député du département du Gard. Imprimé par ordre de l'Assemblée nationale. Paris, 1791.

Acte de Navigation. Rapport et projet de décret sur la navigation française présenté à l'Assemblée nationale, au nom de ses comités de la Marine, d'Agriculture et du Commerce, par M. Delattre, député du département de la Somme. Imprimé par ordre de l'Assemblée nationale, le 22 Septembre, 1791. Paris, 1791.

Never actually presented. Printed under the general authority of committees, (Act of May 28, 1790).

A Mes Collègues [Signed]: J. Mosneron l'ainé,

Député du département de la Loire inférieure.
Paris, May 14, 1792.

Explains to the Assembly why the report on the free ports has not been made; and presents arguments in favor of abolition. Refers to proposed navigation act.

A Mes Collègues [Signed] : J. Mosneron l'ainé, député du département de la Loire inférieure.
1792.

Retort to Sérane's attack in *Opinion—sur la suppression des douanes*.

Opinion de M. Sérane, député de l'Hérault, sur la suppression des douanes. Présentée aux deux comités de marine et de commerce, remise, et imprimée par ordre des deux comités pour y être discutée. Paris, May, 1792.

The careful explanation of the purpose of the pamphlet is intended to reflect on Mosneron's first "A Mes Collègues," which was published without the assent of the Committee of Marine. Mosneron's conduct is denounced in the report.

Rapport sur les ports francs, présenté à l'Assemblée nationale au nom des comités de commerce et de Marine par J. Mosneron l'ainé, député du département de la Loire inférieure—Imprimé en exécution du décret du 28 mai dernier. Paris, 1792.

Rapport et projet de décret sur les consulats de France en pays étrangers; présentés au nom du comité de Marine par M. Granet de Toulon. Imprimé par ordre du comité. Paris, 1792.

Table showing salaries attached to various posts.

Tableau général des consulats suivant leur formation actuelle et les changements proposés. Paris, 1792.

Projet de décret sur les droits de navigation en remplacement des droits d'amirauté communiqué au comité d'Agriculture et de Commerce par le Comité de Marine. Paris, ?1791, ?1792.

The names of the committees indicate a date before the Convention. Interesting as an earlier effort to secure the reform embodied in Ducher's act of October 18, 1793. For the names of Revolutionary Committees see J. J. Guiffrey, *Revue Historique*, I, 438.

Rapport sur un projet d'Acte de Navigation de la République Française présenté à la Convention nationale, le 3 juillet 1793, au nom des comités de Marine, de Commerce, et de Salut public, par Pierre Marec, député du Finistère. Imprimé par ordre de la Convention nationale. Pp. 27-39. Bound with Barère's report (q. v.). See *Arch. Parl.*, LXXIV, 596.

Opinion de Joseph DeLaunay d'Angers, sur l'acte de navigation proposé par les comités diplomatique, de Commerce et de Marine réunis. Prononcée le 20 [19] juillet, 1793, An 2 de la République française. Imprimée par ordre de la Convention nationale.

One of two attacks on Marec's proposal of the Navigation Act, which resulted in its postponement through the summer of 1793.

Convention nationale. Rapport sur l'Acte de Navigation, fait au nom de Comité de Salut pub-

lic, par B. Barère, avec les deux décrets rendus dans la séance du 21 septembre de l'an II de la République française une et indivisible. Imprimés par ordre de la Convention. Envoyés aux Départements et aux Armées, et traduits dans toutes les langues. Paris, 1793.

The report upon which the Navigation Act was passed. Includes Marec's report (pp. 27-39).

Convention nationale. État nominatif des employés des bureaux du département des affaires étrangères. 28 Vendémiaire, An II. Paris, 1793.

Convention nationale. État nominatif des employés des bureaux du département des affaires étrangères. 7 Brumaire, An II. Paris, 1793.

Projet de Code des Douanes présenté par la Commission des Douanes, 15 Brumaire, An II. Paris, n. d.

Actually the work of Ducher (see above page 162).

Projet sur l'organisation des Brigades. Par Bourdon de l'Oise. Paris, n. d.

Projet de Code des Douanes, présenté par la Commission des Douanes, et les Comités de Commerce, de Législation, de Marine, et de Salut public, réunis, le 10 Ventose, l'an second de la République française, une et indivisible. Imprimé par décret de la Convention nationale.

Convention nationale. Rapport et projet de décret sur la suppression des franchises des ports

de Bayonne, Dunkerque et Marseilles, présentés à la Convention nationale au nom de Comité de Commerce par Scellier, imprimés par ordre de la Convention nationale. Frimaire, An III. Paris, 1794.

Motion d'ordre sur le décret qui suspend les franchises des ports de Marseilles, de Dunkerque et de Bayonne; par Poultier, représentant du peuple. Imprimé par ordre de la Convention nationale. Nivose, An. III. Paris, 1794.

Gives some hints as to political management which affected the passage of decree abolishing the franchises.

Rapport fait au nom des Comités de Salut public, de Législation et de Finances, réunis, par Johannot. Imprimé par ordre de la Convention nationale. Germinal l'An III. Paris, 1795.

This report presents the proposal attacked by Ducher in his article of May 17, 1795 (see above).

(c) PROCEEDINGS OF COMMITTEES

Récueil des actes du Comité de Salut public avec la correspondance officielle des représentants en mission et le registre du conseil exécutif provisoire. Publié par F. A. Aulard. 22 vols. to date. Paris, 1889-1912.

The *Actes* include the minutes of the *Conseil exécutif provisoire* and of the Committee of General Defense.

Procès-verbaux des Comités d'Agriculture, et de Commerce de la Constituante, de la Législative, et de la Convention. Publiés et annotés par Fernand Gerbaux et Charles Schmidt. 4 vols.

Paris, 1906-1910. (In *Collection des Documents inédits sur l'histoire économique de la Révolution française*).

The records of these committees have been of fundamental importance in the preparation of this essay. They afford a uniquely valuable insight into the operation of external influences upon the Revolutionary bodies, and, at the same time, into the large part which committee action played in the workings of those bodies. The editing is, in general, of a high order, but a certain caution needs to be exercised in using the work. For example, the division of the Committee of Agriculture and Commerce of the Constituent Assembly into two sections on October 7, 1789, and the meetings of these sections until January 18, 1790, when they were reunited, are not adequately represented (see Vol. I, 108-9). On one occasion, at least, a measure as passed by the Convention is printed as the *projet* adopted by the Committee, when that is not the case (see p. 165 of this work). An index, long promised, (1910: See preface, Vol. IV), has not yet been furnished. This leaves the material of the four bulky volumes almost inaccessible except by painful industry.

[Minutes of the Committee of Marine and Colonies in the National and Legislative Assemblies and the Convention.] MS. *Arch. Nat.*, D*, XVI: 1, 2, 3, 4.

[Minutes of the Colonial Committee of the Convention to April, 1793.] MS. *Arch. Nat.*, D*, XVI:5.

Of very slight value, because of their meagerness.

[Register of letters addressed to the Committee of Marine and the Colonies. (An III)]. MS. *Arch. Nat.*, D*, XVI:10.

Registre servant à l'enregistrement des pièces déposées au secretariat du Comité de Marine des Assemblées nationales, législatives et conventionnelles à commencer de 1 novembre, 1791. MS. Arch. Nat., D*, XVI:13.

Some light on Ducher's petition for extra pay as vice-consul.

V. GOVERNMENTAL RECORDS, CORRESPONDENCE,
ETC.

(a) ADMINISTRATIVE

Actes de la Commune de Paris pendant la Révolution. Publiés et annotés par Sigismond La Croix. First series, from July 25, 1789, to October 8, 1790. 8 vols; second series, from October 9, 1790, to August 10, 1792; 6 vols. Paris, 1894-1908. (In *Collection des Documents Inédits relatifs à l'histoire de Paris pendant la Révolution*).

Has some slight biographical indications in regard to Ducher.

[Rough draft of a letter to be sent to the consuls in the United States. (dated) 16 février, 1783]. MS. Arch. Aff. Étr., Corresp. pol., États-Unis, Suppl., 1778-1784, 11, 245, 246.

Announces the intention of the government to send more consuls.

[. . . to "M. Frances, ancien ministre plénipotentiaire du roy en Angleterre. Versailles,

Octobre, 1783."] MS. *Arch. Aff. Étr.*, États-Unis, Suppl., 11, 319.

Announces that Ducher has been put on the list of "prétendants" for place as consul.

Amérique 18 octobre, 1783. La feuille au net dans les feuilles du Roy. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, Suppl., 11, 319.

Rough draft of several letters in regard to Ducher's journey to America.

Rapport demandé par M. le Comte de Moustier sur l'établissement consulaire de France en Amérique, etc. [Signed] *New York, 1 mars, 1788, De la Forest.* MS. *Arch. Aff. Étr.*, Méms. et Docs., États-Unis, 15, 49.

The basis of De Moustier's "Distribution des consulats."

1788—Distribution des Consulats et vice-Consulats de France dans les États-Unis et caractère des différents sujets qui y sont employés (by De Moustier). MS. *Arch. Aff. Étr.*, Mems. et Docs., États-Unis, 9, 187-198.

Contains a bitter condemnation of Ducher.

Lebrun to Roland, Sept. 18, 1792. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, 36, 395.

In regard to the American debt.

Roland to Lebrun, September 19, 1792. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, 36, 396.

Reply to foregoing.

Roland to Lebrun, September 30, 1792. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, 36, 414.

Purchase of supplies in the U. S.

Lebrun to Roland, October 15, 1792. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, 36

Refusal of Short and Morris to recognize the Republic interferes with negotiation in regard to the debt.

(Clavière to W. S. Smith, Nov. 7, 1792). MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, Suppl., 19, 168.

In regard to the liquidation of the American debt.

Rapport du Ministre des Contributions publiques sur la liquidation de la dette Américaine. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis, Suppl., 19, 147.

Clavière on the Smith affair.

W. S. Smith to the Minister Plenipotentiary of the French Republic. Philadelphia, May 8, 1793. MS. *Arch. Aff. Étr.*, Corresp. pol., États-Unis Suppl., Ser. 2, 13.

In regard to Smith's activities in the purchase of supplies.

Marec to the Minister of Marine and Colonies (Monge) (July, 1793). MS. *Arch. Nat.*, AF II, 9.

Transmits copy of his report on the navigation act which he had read to the Executive Council.

[List of] *Candidates pour la place de secrétaire du Conseil exécutif, du 28, juillet, 1793.* MS. *Arch. Nat.*, AF II, 7.

Third on the list is Duché [Ducher?]. Paret (spelled Paré), the last on the list, was chosen.

Mémoires présentés à la commission des douanes par les régisseurs, imprimés par ordre de la Convention nationale, 2 Frimaire, An II. Paris, n. d.

Proposed changes in customs administration. Some indication of attitude toward Ducher. Discussed in Part III, chap. 1, of this work.

E. Clavière, ex-ministre des contributions publiques, aux citoyens composant le Conseil exécutif provisoire. De la Conciergerie du ci-devant palais le 21 Brumaire, l'an deux. MS. Arch. Nat., AF II, 8.

Requests copies of papers to enable him to reply to Ducher's *Les Deux Hémisphères*.

(b) DIPLOMATIC

Correspondance des Beys de Tunis et des Consuls de France avec la cour, 1577-1830. Publié par Eugène Plantet. 3 vols. Paris, 1899.

Some light on proposed mission of Ducher and Lallement to Algiers and Tunis.

(The) *Despatches of Earl Gower, English ambassador at Paris, from June, 1790, to August, 1792.* . . . Edited by Oscar Browning. Cambridge: University Press, 1885.

Valuable for hints given as to Clavière's financial interests.

Correspondence of the Comte de Moustier with the Comte de Montmorin, 1787-1789. Edited by H. E. Bourne. *American Historical Review*, VIII, 709-733, IX, 86-96.

Correspondence of the French Ministers to the United States, 1791-1797. Edited by F. J. Turner. (A. H. A. Reports, 1903, Vol. II; Seventh Report of the Historical Manuscripts Commission). Washington: Government Printing Office.

Aulard, F. A. La politique étrangère du Comité de Salut Public en l'an II (Documents.) Revolution Française, 1888, XIV, pp. 1111-1117.

P. Bond to the Marquis of Carmarthen, Philadelphia, Jan. 5, 1787. MS. Public Record Office. F.O.4—5.

On French efforts to encourage Franco-American trade.

Correspondance de la division des contentieux politiques pendant la ministère de Dumouriez, 14 août, 1791-2 mars, 1792. MS. Arch. Nat. D, XXIII:2.

Shows the character of this bureau before it was "commercialized" by Ducher.

Ternant to De Lessart, Philadelphia, April 15, 1792. MS. *Arch. Aff. Étr., Corresp. pol. États-Unis*, 36, 57.

In regard to expectation that the U. S. would pass a Navigation Act.

. to Hammond (English Minister to the U. S.), Whitehall, Feb. 8, 1793. MS. P. R. O. F. O. 5—1.

Alludes to Genet's instructions in regard to the American debt and the purchase of supplies.

Hammond to Grenville. Philadelphia, March 7, 1793. Secret and confidential. MS. P. R. O. F. O. 5—1.

Information about Col. W. S. Smith's purchase of supplies for the French.

Hammond to Grenville, Philadelphia, April 2, 1793. MS. P. R. O. F. O. 5—1.

More information in regard to W. S. Smith.

. . . . to Hammond, Whitehall, May 2, 1793. M. S. P. R. O. F. O. 5—1.

In regard to the purchase of supplies by the French.

Hammond to Grenville, Philadelphia, May 17, 1793. MS. P. R. O. F. O. 5—1.

Still more information about Smith's activities and the attitude of the government of the U. S.

Hammond to Grenville. Philadelphia, July 7, 1793. MS. P. R. O. F. O. 5—1.

Attitude of the government of the United States in regard to the French proposals.

Mémoire pour servir d'instructions aux citoyens Ducher et Lallement destinés à Tunis et Algiers, 4 Ventose, An 2. MS. Arch. Aff. Étr., Mém. et Doc., Afrique, 9:196-201.

Rapport du 28 Pluviose An 3 [by the Committee of Public Safety on relations with Algiers]. MS. Arch. Aff. Étr., Mém. et Doc., Algiers, 14: 35.

Shows that Ducher did not go to Algiers.

VI. BIOGRAPHICAL COLLECTIONS

"Trois lettres inédites à Étienne Dumont (1791-1792)" publiées et annotées par M. Otto Karmin (In *Révue Historique de la Révolution Française*, No. 17, janvier-mars, 1914).

Contains references to Clavière's petition of 1791, to other works on finance, to Bidermann.

Charlotte de Corday et les Girondins. Pièces classées et annotées par M. Charles Vatel. 2 vols. Paris, 1864-1872.

Petition's *Memoir sur Brissot*. Hint of project of Clavière to take over the American debt.

Discours de Danton. A. Fribourg, editor. Paris, 1910.

Limited, by reason of the purely extempore character of Danton's utterances, to compilation of reports in the *Moniteur*, *Journal des Débats*, and other journals.

Mémoires, correspondences et manuscrits du général Lafayette, publiés par sa famille (George Washington Lafayette ed.). Bruxelles, 1837.

Limited in its usefulness by its selective character. Contains some useful references to Girondin politics.

Correspondence of W. A. Miles on the French Revolution, 1789-1817. 2 vols. London, 1891.

Used for some general indications in regard to the political bearings of the outbreak of war between England and France.

(The) *Diary and Letters of Gouverneur Morris.* Edited by Anne Cary Morris. 2 vols. New York, 1888.

Rich with political gossip—much of it of great significance. Especially hostile to Clavière, who was a financial rival.

Opinions de Napoleon sur divers sujets de politique et d'administration. Récuellies par un membre de son Conseil d'État (the Baron Pelet de la Lozère). ———, 1833.

Some information as to the Emperor's attitude in regard to the navigation act. Sober and sincere, but probably not of the greatest accuracy. (See Part V.)

Lettres de Madame Roland, publiées par Claude Perroud. 2 vols. Paris, 1900-1902. (*Collection des Documents Inédits sur l'histoire de la France*).

Some information about Clavière.

VII. JOURNALS

Bibliothèque commerciale. . . . *par J. Peuchet*. 13 vols. Paris, 1802-1806.

An invaluable and little worked mine of information about commercial legislation, actual and proposed.

(Le) *Gazette nationale, ou Moniteur universel*. 1789—An VIII. 24 vols. folio.

Although its importance as a record of the Revolution has long been recognized, the *Moniteur* seems never to have been made the subject of careful, explicit study, as it well deserves to be. Characterized from the beginning by an attitude of careful neutrality, it managed to preserve a sympathetic relation with each of the elements that in turn controlled the course of events. That it had a "program" is strongly suggested by the long succession of Ducher's articles in its columns, continued as it was by Trouvé, one of the editors, after Ducher had ceased to write. This program, however, was never allowed to interfere with the scrupulous impartiality of its presentation of news, or with the encyclopedic range of information, as compared with its contemporaries, which it presented to its readers.

Réimpression de l'ancien Moniteur, seule histoire authentique et inaltérée de la Révolution

française depuis la réunion des États généraux jusqu' au Consulat, mai, 1789,—novembre, 1799, avec des notes explicatives [edited by Leonard Gallois]. 32 vols. Paris, 1863-1870.

This reprint of the early volumes of the *Moniteur* affords a convenient and perfectly dependable substitute for the original. With few exceptions, the references in this work are to it, rather than to the original. Gallois' notes sometimes afford interesting indications of state of opinion in regard to the Revolution during the latter years of the "Liberal" Empire. It should be noted that the last two volumes devoted to text are simple calendars.

Journal des débats et des décrets.

As its title indicates, the *Journal* was devoted entirely to the proceedings of the legislative bodies. It contains many details not to be found in the *Moniteur* or in the official minutes.

New Hampshire Mercury.

Some slight notices of Ducher's activity as consul at Portsmouth.

VIII. BOOKS AND PAMPHLETS (NON-OFFICIAL)

[Anonymous]. *Que des peines perdues!* Paris, 1791.

Anonymous; sarcastic attack on the obscurities of Clavière's "Petition" of Nov. 15, 1791.

[Anonymous]. *Reflexions sur le commerce, la navigation et les colonies.* Paris, 1787.

An argument for the adoption of exclusive principles in the trade with America.

Audouin, Xavier. *Du Commerce Maritime.* 2 vols. Paris, 1802.

Utilizes (in part, with due recognition) Ducher's proposals and arguments.

Question important sur le Commerce. (Signed) Basterrèche, député du Commerce et de la Commune de Baionne. Paris, ?1790, ?1791.

Argument in defense of the free port of Bayonne.

Mémoire defensif de la franchise de la ville de Baionne et du pays du Labourd, rédigé par le syndic et le comité de correspondance de Labourd, et par la chambre du commerce et les commissaires de la commune de Baionne. Paris, 1790.

Boyetet, Député de Baionne, au bureau de Commerce. *Précis sur la franchise de la ville de Baionne et du Pays de Labourd.* n. d.

Defends the franchise.

Brissot, J. P. *Nouveau Voyage dans les États-Unis de l'Amérique septentrionale.* 3 vols. Paris, 1791.

Apparently written for the purpose of promoting sales of land, this work enjoyed a considerable literary success. Miss Ellery notes seven different editions and translations. The third volume is a reprint of Clavière and Brissot's *De la France et des États-Unis*.

Clavière, E. *Adresse de la Société des Amis des Noirs, à l'Assemblée nationale . . . dans laquelle on approfondit des relations politiques et commerciales entre la metropole et les colonies.* (Second edition). Paris (July) 1791.

This edition contains an interesting argument against Mosneron's proposal of a navigation act, which clearly illustrates the anti-mercantilist point of view of the Girondin leader.

Clavière, É. et Brissot, J. P. *De la France et des États-Unis, ou de l'importance de la révolution de l'Amérique pour le bonheur de la France, des rapports de ce royaume et des États-Unis, des avantages réciproques qu'ils peuvent retirer de leurs liaisons de commerce, et enfin la situation actuelle des États-Unis*, par Étienne Clavière et J. P. Brissot de Warville. London, 1787.

The summary is a clear enunciation of anti-mercantilist principles, as applied to the relations between France and the United States.

Clavière, É. *Petition faite à l'Assemblée nationale—sur le remboursement des créances publiques non-vérifiées, et sur le paiement des domaines nationaux en assignats et espèces effectives*. 31 pp. *Arch. Parl. 1er série*, XXXIV, 642.

See *Rév. Hist. de la Rév. Fr.* No. 17, Janvier-Mars, 1914, p. 7. Clavière here describes the reception of his petition by the Assemblies.

Clavière, E. *Éclaircissement sur ce qui me concerne dans un écrit imprimé par ordre de la Convention nationale le septième jour du second mois de l'an deux de la République française, une et indivisible, et publié sous le titre: Les deux Hemisphères par A. G. J. Ducher*. [Paris, 1793].

Clavière's reply to Ducher—recognizes the conflict in economic principles.

Opinion de J. Cartier Douineau, député du Département d'Indre et Loire à l'Assemblée nationale

sur la nouvelle émission d'assignats—et sur la petition de M. Clavière. Paris, n. d.

Parallel to Ducher's "Réponse à la petition de Clavière."

La vie et les memoires du général Dumouriez, avec des notes et des éclaircissemens historiques. 4 vols. Paris, 1822-3. (In Berville et Barrière, *Collection des mémoires relatifs à la Révolution française*).

Sober, sometimes disappointing, but convincing.

Observations sur la franchise et le commerce de Dunkerque considérés relativement à l'intérêt du Royaume en général et celui de département du Nord en particulier. Paris, 1790.

Reply to attacks upon the franchise of Dunkirk by neighboring towns.

Hauterive. *De l'État de la France à la fin de l'An VIII.* Paris, 1800.

Advocates the extension over Europe of the principles of the navigation act.

De l'influence que peuvent avoir les douanes sur la prospérité de la France. Par le Cen Magnien, Administrateur des douanes. Pp. 40 (Paris). (L'an IX).

Some biographical information in regard to Mosneron.

Marec, Pierre. *Sur le Blocus des Iles Britanniques et l'acte de navigation de l'Angleterre.* Paris, (6 Dec.) 1806.

Not available. Marec's interest in such questions seems to indicate a possible channel through which the

Revolutionary ideas of commercial restriction may have been carried to the Emperor.

Mémoire pour servir au projet d'un acte de navigation, présenté aux Comités d'Agriculture et du Commerce de l'Assemblée nationale, par la Chambre du Commerce de Marseilles. Marseilles, 1791.

Mildly favorable to a navigation act of a limited sort.

Mengin. *Réponse aux observations du citoyen Ducher, inséré dans le Moniteur du 28 Floréal, contre la Banque ou Caisse hypothécaire présenté par Johannot au nom du Comité des Finances. Paris, n. d. [1795].*

Some indications of Ducher's political relationships.

Monbrion. *De la préponderance maritime et commerciale de la Grande Bretagne ou des intérêts des nations relative à l'Angleterre et à la France. Paris, 1806.*

According to Professor F. E. Melvin, of great influence in the development of the continental system. See Peuchet, 11:236-40.

Lettre de M. Montesquiou-Fezensac à M. Clavière sur son ouvrage intitulé "De la conjuration contre les finances de l'État, et moyens à prendre pour en arreter les effets." 1 avril, 1792. Paris, n. d.

Mosneron, J. *Opinion de M. Mosneron l'ainé, député extraordinaire du commerce de Nantes,*

sur le projet d'établissement d'un acte de navigation en France (16 janvier, 1791). [Paris, 1791].

A proposed navigation act almost contemporary with that of Ducher.

Mémoire sur les ports francs rédigé par P. Peloux, député de la ville de Marseilles, approuvé par le députation et par Messieurs les députés du commerce de cette ville. [Paris] chez Baudouin [1790-1791].

An excellent review of the history and definition of the character of the free port.

"Observations sur les circonstances actuelles, relativement aux intérêts de la République française, et celle des États-Unis de l'Amérique." (Signed) "Par ordre de la Société, A. C. Duplaine, President, S. Barrière, Secrétaire, and sealed with the seal of the "Société française des Amis de la Liberté et Égalité 1792 Philadelphie)." (No date. ? Summer of 1793). MS. *Archives Nationales*, D, XXV:59.

In support of the navigation act.

Swan, James. *Causes qui se sont opposées aux progrès du Commerce entre la France et les États-Unis de l'Amérique, traduit sur le manuscrit anglais du Colonel Swan.* Paris, 1790.

A few indications in regard to the interest of Lafayette in commercial questions, especially commerce with the United States.

Petion, Buzot et Barbaroux. *Mémoires inédits de Petion et mémoires de Buzot et de Bar-*

baroux, précédés d'une introduction par C. A. Daubon. Paris, 1866.

Very slight indications in regard to Brissot's American interests.

IV. NON-CONTEMPORARY WORKS: I.E., WORKS WRITTEN AND PUBLISHED AFTER 1815

Masson, Frédéric. *Le Département des Affaires étrangères pendant la Révolution, 1787-1804.* Paris, 1877.

M. Masson's brief notice of Ducher on pages 240-241 has been of much assistance. It is for the most part derived from materials inaccessible to students without official connection with the *Archives des Affaires Étrangères*. Nevertheless the notice contains several inaccuracies of date which are mentioned in the text, pp. 129 and 130. M. Masson seems to have been unaware of the revolution in the organization of the department attempted by Ducher and the Customs Commission, which is discussed in Part III, Chapter 1, of this work.

Monographs on the tariff history of the Revolutionary period are almost impossible to discover. Boissonade in *Les études relatifs à l'histoire économique de la Révolution française* (Paris, 1906) is able to list only de Butenval's *Établissement en France du premier tarif général des douanes* (Paris, 1877). For the rest, there are a few pages in the general histories of commerce, some of the more important of which follow. They serve to illustrate the undeveloped state of knowledge of the subject rather than to offer any substantial information or guidance. A few of the general histories of the Revolution in

which some consideration of commercial problems might be expected are also listed only to note their disappointing character.

Amé, Léon. *Étude économique sur les tarifs des douanes*. 1859, and later editions.

Amé, Léon. *Étude sur les tarifs des douanes et sur les traités de commerce*. 2 vols. Paris, 1876.

Aulard, F. A. *Histoire politique de la Révolution française. Origines et développement de la démocratie et de la République*. (1789-1894). Paris, 1901.

The interpretation of the party struggle in the Convention given in this work is perhaps at present the dominant one. It omits all consideration of the economic issues.

Bacques, Henri. *Essai historique sur les douanes françaises*. Paris, 1852.

Butenval, Charles Adrien His, Comte de. *Établissement en France du premier tarif général des douanes, 1787-1791*. Paris, 1876.

A frankly partisan, but very intelligent study, especially valuable for the documents in the appendix of eighty pages.

Clement, P. *Histoire du système protecteur en France*. Paris, 1854.

Cunningham, Audrey. *British Credit in the Last Napoleonic War*. With an appendix containing a reprint of "Des Finances de l'Angle-

terre," by H. Lasalle. Cambridge: University Press, 1910. (Girton College Studies, No. 2).

For discussion of Miss Cunningham's study from the point of view of this essay, see above, pp. 292, 293.

Deschamps, Leon. *Les Colonies pendant la Révolution. La Constituante et la reforme coloniale*. Paris, 1898.

P. 155: "L'Acte de Navigation terminait dignement l'oeuvre économique de la Constituante!"

Gouraud, Charles. *Histoire de la politique commerciale de la France*. 2 vols. 1854.

Jaurès, Jean. *La Convention*, 2 vols. Paris, s. d. (Volumes 3 and 4 of the *Histoire socialiste, 1789-1900, sous la direction de Jean Jaurès*, Paris, 1900-1909.)

Disappointing on account of its omission of any consideration of the economic issues between the Gironde and the Mountain: "Il n'avait rien dans les *conceptions premières* des Girondins, rien dans leurs attaches sociales qui rendit absolument impossible leur accord avec Danton et avec la Montagne." (Vol. 4, p. 1458.)

Jouyne, Zephirin. *Abolition du système prohibitif des douanes, etc.* Paris, 1849.

Some references to the Navigation Act.

Kropotkin, P. A. *The Great French Revolution, 1789-1793*. Translated from the French by N. F. Dryhurst. New York and London, 1909.

Almost purely "programmatic." In spite of professed attention to economic issues, the conflict between mercantilist and anti-mercantilist is not even touched upon.

Lemée, Pierre. *Pourquoi et comment secourir notre marine marchande*. (Thesis for the Doctorate, University of Rennes, 1904). Lisieux, 1904.

Chapter II. "Histoire des dispositions législatives qui ont régi notre marine au siècle dernier."

Levasseur, E. *Histoire des Classes ouvrières et de l'industrie en France*. 1789-1870. 2 vols. 2nd ed. 1903.

Two pages on the Navigation Act. Slightly inaccurate, but with some appreciation of the significance of the act.

Levasseur, E. *Histoire du commerce de la France*. 2 vols. Paris, 1911-1912.

Melvin, Frank Edgar. *Napoleon's Navigation System: A Study of Trade Control during the Continental Blockade*. Philadelphia, 1919.

This work and my own were done almost contemporaneously as parts of the series of related studies inspired by Professor William E. Lingelbach on the economic aspects of the Napoleonic period. Professor Melvin states, on page 345 of his work, that after 1814, "of the elaborate structure of Napoleon's commercial system no part remained unrazed save those foundations laid by the men of the Revolution—the Navigation Acts of September 21, 1793, and 18 Vendémiaire An II." Professor Melvin concerns himself almost exclusively with the part of the structure that fell with Napoleon. Although he says in his preface that his "chief emphasis is institutional," he is more accurate when, in his concluding words, he avows his purpose to contribute to a "correct appreciation of Napoleon's statesmanship." Like many another student of Napoleon, Professor Melvin has allowed the overshadowing figure of the great conqueror to obscure

his vision and to distort his perspective. He has ignored too completely the universal aim of the Navigation Act of 1793 in the intention of its framers and the fact that in this field as in so many others, Napoleon was not the creative statesman but merely the effective agent in applying the Revolutionary idea.

Noel, Octave. *Histoire du commerce extérieur de la France depuis la Révolution*. 1879.

Risson, Paul. *Histoire sommaire du commerce*. Paris, 1902.

A mere *précis*.

Rose, John Holland. "Napoleon and English Commerce." *English Historical Review*, 1893. Vol. VIII, pp. 704 ff.

Although misleading and inaccurate, Professor Rose's article deserves notice as the first recognition of the Revolutionary origin of Napoleon's commercial policy.

Saint-Ferreol. *Exposition du système des douanes en France depuis 1791 jusqu'à 1834*. Marseilles, 1835.

Sorel, Albert. *L'Europe et la Révolution française*. 8 vols. 8th edition. Paris, 1908.

In all this apparently encyclopedic survey, no note is taken of that "scramble for navigation" which John Adams noted in 1785 and which Ducher advocated as the object of French diplomacy. (See above, pp. 41 and 93; cf. pp. 134, 135).

Stephens, H. Morse. (A) *History of the French Revolution in Three Volumes*. 2 vols. New York, 1886-1891.

To the great loss of Revolutionary study, particularly here in America, the third volume has not been published.

In general to be valued especially for its emphasis on the provincial aspects of the Revolution, it has been of the greatest utility in connection with my task on account of the skillful interpretation of the politics of the Convention between the fall of the Gironde and the establishment of the "provisional revolutionary government" on December 4, 1793.

Villiers, G., and Bowring, J. *First report on the commercial relations between France and Great Britain*, London, 1834.

The prefaced instructions illustrate the already developed conception of the Revolution as liberal in regard to commercial restrictions.

Some other works on special subjects that have been of use in the development of this essay follow:

Dupuy, Émile. *Américains et Barbaresques, 1776-1824, avec une préface de M. Arthur Chuquet*. Paris, 1910.

Ellery, Eloise. *Brissot de Warville. A study in the history of the French Revolution*. (Vassar Semi-Centennial Series). Boston and New York, 1915.

Useful especially for the documents bearing on Brissot's American enterprise printed in the appendix. The work itself takes Brissot too nearly at his own valuation.

Gide, C. et Rist, C. *Histoire des doctrines économiques depuis les physiocrates jusqu'à nos jours*. Second edition. Paris, 1913.

Avowedly devoted to the history of doctrines alone. Omits all consideration of the *political* history of the doctrines.

Guiffrey, J. J. "(Les) Comités des Assemblées révolutionnaires, 1789-1795. Le Comité d'Agriculture et du Commerce." *Revue historique*, 1876, I:438-483.

Though slightly inaccurate, valuable as a guide through changes of name and form of these committees and as an early appreciation of the importance of the committee system and of the economic work of the Revolution.

Masson, Paul. *Ports francs d'autrefois et d'aujourd'hui*. Marseilles, 1904.

Much on the early history of the four French "ports francs," very little on their abolition.

Musset, Georges. *Les ports francs, étude historique*. Paris, 1904.

Antiquarian. Almost nothing on the abolition.

Schmidt, Charles. "Anvers et le système continental." (*Revue de Paris*, Feb. 1, 1915, p. 641).

The navigation act discussed in its relation to the policy of the Committee of Public Safety in the conquest of the Netherlands.

White, Andrew D. *Fiat money inflation in France; how it came, what it brought, and how it ended*. Private edition, revised and enlarged by the author. Toronto, 1914.

A convenient survey of the larger outlines of the financial history of the Revolution, several times effectively used as a campaign document in American elections.

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